



**Adalah**

**Suggested items to the UN Committee on the Elimination of Racial Discrimination (CERD) for the List of Themes for the State of Israel**

8 December 2011

Adalah is pleased to submit this report to the UN Committee on the Elimination of Racial Discrimination (CERD) to assist it in its consideration of Israel's 14<sup>th</sup> to 16<sup>th</sup> periodic reports to the Committee (October 2010/ January 2011), and in its upcoming review of Israel in February 2012.

Theme	Page
<b><u>1. National legal framework, policies and programmes against racial discrimination (Articles 1, 2, 5 and 6 of the Convention)</u></b>	
<ul style="list-style-type: none"> <li>• <b>The lack of a constitutionally-guaranteed right to equality in the Basic Laws of Israel</b>  <i>See also:</i>  <i>The Committee on the Elimination of Racial Discrimination (CERD) Concluding Observations of 2007, para. 16, 17 (CERD/C/ISR/CO/13);</i>  <i>The Human Rights Committee (HRC) Concluding Observations of 2010, para. 6 (CCPR/C/ISR/CO/3);</i>  <i>The Committee on the Elimination of Discrimination Against Women (CEDAW) Concluding Observations of 2005, para. 156, 172 (CEDAW/C/ISR/CO/3);</i>  <i>The Committee on Economic, Social and Cultural Rights (CESCR) Concluding Observations of 2003, para. 32 (E/C.12/1/Add.90).</i></li> </ul>	4
<ul style="list-style-type: none"> <li>• <b>The enactment of new laws that discriminate against Palestinian Arab citizens of Israel</b>  <i>See also:</i>  <i>HRC Concluding Observations of 2003, para. 22 (CCPR/CO/78/ISR, par.21);</i>  <i>CESCR Concluding Observations of 2003, para. 18 (E/C.12/1/Add.90).</i></li> </ul>	5
<ul style="list-style-type: none"> <li>• <b>The continued extension of the validity of the Citizenship and Entry into Israel Law – 2003 (ban on family unification between Palestinian families)</b>  <i>See also:</i>  <i>CERD special decisions of 2003 (Decision 2/63) and 2004 (Decision 2/65) and Concluding Observations of 2007, para. 20 (CERD/C/ISR/CO/13);</i>  <i>HRC Concluding Observations of 2003, para. 21 (CCPR/CO/78/ISR, par.21) and 2010, para. 15 (CCPR/C/ISR/CO/3);</i>  <i>CEDAW Concluding Observations of 2005, para. 33-34 (CEDAW/C/ISR/CO/3) and 2011, para. 24-25 (CEDAW/C/ISR/CO/5);</i>  <i>CESCR Concluding Observations of 2003, para. 18, 34 (E/C.12/1/Add.90).</i></li> </ul>	6
<ul style="list-style-type: none"> <li>• <b>The state's failure to implement court judgments and its own commitments in discrimination cases</b></li> </ul>	8

<b><u>2. The situation of the Palestinian Arab national minority in Israel, including the Arab Bedouin in the Naqab (Negev) (Articles 1, 2, 3, 5 and 6 of the Convention)</u></b>	
<i>(a) The Palestinian Arab national minority in Israel</i>	
<ul style="list-style-type: none"> <li>● <b>Discrimination in access to and use of ‘state land’</b></li> </ul>	9
<i>See also:</i>	
<i>CERD Concluding Observations of 2007, para. 17, 19, 22, 23 (CERD/C/ISR/CO/13);</i>	
<i>CESCR Concluding Observations of 1998, para. 11, 35 (E/C.12/1/Add.27).</i>	
<ul style="list-style-type: none"> <li>● <b>Restrictions on participation in the political and electoral systems</b></li> <li>● <b>Restrictions on the right to demonstrate</b></li> <li>● <b>Ongoing lack of accountability for the October 2000 protest killings</b></li> </ul>	12 16 19
<i>See also:</i>	
<i>CERD Concluding Observations of 2007, para. 30 (CERD/C/ISR/CO/13).</i>	
<ul style="list-style-type: none"> <li>● <b>Attacks on human rights organizations and human rights defenders</b></li> </ul>	20
<ul style="list-style-type: none"> <li>● <b>Socioeconomic disadvantage and high levels of poverty</b></li> </ul>	21
<i>See also:</i>	
<i>CESCR Concluding Observations of 2011, para 24 (Advanced Unedited Version);</i>	
<i>CESCR Concluding Observations of 2003, para. 16 (E/C.12/1/Add.90);</i>	
<i>CESCR Concluding Observations of 1998, para. 17 (E/C.12/1/Add.27);</i>	
<i>HRC Concluding Observations of 1998, para 12 (CCPR/C/79/Add.93).</i>	
<ul style="list-style-type: none"> <li>● <b>Pay gaps and obstacles to employment for Arab men and women</b></li> </ul>	22
<i>See also:</i>	
<i>CESCR Concluding Observations of 2011, para 13-14 (Advanced Unedited Version);</i>	
<i>CESCR Concluding Observations of 2003, para. 21, 36-37 (E/C.12/1/Add.90);</i>	
<i>CERD Concluding Observations of 2007, para. 24 (CERD/C/ISR/CO/13).</i>	
<ul style="list-style-type: none"> <li>● <b>Unemployment rates</b></li> </ul>	24
<i>See also:</i>	
<i>CESCR Concluding Observations of 2011, para 9 (Advanced Unedited Version);</i>	
<i>CESCR Concluding Observations of 2003, para. 20 (E/C.12/1/Add.90).</i>	
<ul style="list-style-type: none"> <li>● <b>Using national or military service requirements as a main means of discrimination</b></li> </ul>	25
<i>See also:</i>	
<i>CERD Concluding Observations of 2007, para. 21 (CERD/C/ISR/CO/13);</i>	
<i>HRC Concluding Observations of 1998, para 12, 15 (CCPR/C/79/Add.93).</i>	
<ul style="list-style-type: none"> <li>● <b>Under-representation in the civil service</b></li> </ul>	26
<i>See also:</i>	
<i>CEDAW Concluding Observations of 2011, para 32-33 (Advance Unedited Version);</i>	
<i>HRC Concluding Observations of 2003, para 23 (CCPR/CO/78/ISR).</i>	
<ul style="list-style-type: none"> <li>● <b>Discrimination in education</b></li> </ul>	27
<i>See also:</i>	
<i>CESCR Concluding Observations of 2011, para 33 (Advanced Unedited Version);</i>	
<i>CERD Concluding Observations of 2007, para. 22, 27 (CERD/C/ISR/CO/13);</i>	
<i>CRC Concluding Observations of 2002, para 54-55 (CRC/C/15/Add.195).</i>	

<b><i>(b) The Arab Bedouin in the Naqab (Negev)</i></b>	
<ul style="list-style-type: none"> <li>• <b>Forced displacement and the Praver Plan</b>  <i>See also:</i>  CESCR Concluding Observations of 2011, para 27 and 37 (Advanced Unedited Version);  HRC Concluding Observations of 2010, para 24 (CCPR/C/ISR/CO/3);  CERD Concluding Observations of 2007, para. 25 (CERD/C/ISR/CO/13).</li> </ul>	28
<ul style="list-style-type: none"> <li>• <b>The denial of basic rights in the unrecognized Arab Bedouin villages: Water, health and education</b>  <i>See also:</i>  CEDAW Concluding Observations of 2011, para 44 (Advance Unedited Version);  CEDAW Concluding Observations of 2005, para 39 (CEDAW/C/ISR/CO/3);  HRC Concluding Observations of 2010, para 24 (CCPR/C/ISR/CO/3);  HRC Concluding Observations of 1998, para 14 (CCPR/C/79/Add.93);  CERD Concluding Observations of 2007, para. 25 (CERD/C/ISR/CO/13);  CESCR Concluding Observations of 2011, para 30 (Advanced Unedited Version);  CESCR Concluding Observations of 1998, para. 26, 28 (E/C.12/1/Add.27).</li> </ul>	32
<ul style="list-style-type: none"> <li>• <b>Denial of the right to political participation in local governance</b></li> </ul>	35
<b><u>3. The right to equal participation in cultural activities of minorities (Articles 1, 2 and 5 of the Convention)</u></b>	
<ul style="list-style-type: none"> <li>• <b>The inferior position of the Arabic language in Israel</b>  <i>See also:</i>  HRC Concluding Observations of 2010, para. 23 (CCPR/C/ISR/CO/3).</li> </ul>	36
<ul style="list-style-type: none"> <li>• <b>Lack of respect for Arab citizens' right to religion (Muslim, Christian and Druze)</b>  <i>See also:</i>  CERD Concluding Observations of 2007, para. 28 (CERD/C/ISR/CO/13);  HRC Concluding Observations of 2010, para. 20 (CCPR/C/ISR/CO/3).</li> </ul>	37
<ul style="list-style-type: none"> <li>• <b>Restrictions on cultural contact with other members of the Arab nation</b></li> </ul>	39

## **1. National legal framework, policies and programmes against racial discrimination (Articles 1, 2, 5 and 6 of the Convention)**

According to Israel's fourteenth to sixteenth periodic reports to the Committee (October 2010/ January 2011), "Since the submission of Israel's thirteenth Periodic Report, significant new steps have been taken by the Knesset to promote tolerance and the elimination of racial discrimination in all its forms" (p. 4). The state provides examples of the new Prohibition of Violence in Sport Law and the Pupil's Rights Law. This portrayal of the national legal framework against racial discrimination is extremely partial and misleading; it ignores the fact that several aspects of this legal framework permit and even actively promote racial discrimination, as defined in Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (the ICERD). Crucially, the fact that Israeli citizens do not enjoy the right to equality with constitutional protection has allowed for the legislation of dozens of discriminatory laws, and allowed the state to pursue policies and programs that discriminate against groups of citizens, including the Arab national minority in Israel, which accounts for around 20% of the total population of Israel.

- **The lack of a constitutionally-guaranteed right to equality in Israel's Basic Laws**

Israel lacks a written constitution or a Basic Law that constitutionally guarantees the right to equality before the law and prohibits racial discrimination, either direct or indirect. While several ordinary statutes do provide protection for the right of equality for women and people with disabilities,<sup>1</sup> no statute relates to the right to equality for the Palestinian Arab minority in Israel in particular. The Basic Law: Human Dignity and Liberty, which is considered a mini-bill of rights by Israeli legal scholars, does not enumerate a right to equality; on the contrary, this Basic Law emphasizes the character of the state as a Jewish state.<sup>2</sup> While some justices of the Supreme Court have interpreted the Basic Law: Human Dignity and Liberty as including the principle of equality,<sup>3</sup> this fundamental right is currently protected by judicial interpretation alone. However, the importance of the principle of equality requires that it be explicitly guaranteed in the Basic Laws or by statute. The absence of an explicit guarantee of the right to equality in the Basic Laws or regular statutes diminishes the power of this right and makes the Palestinian minority in Israel vulnerable to direct and indirect discrimination.

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<sup>1</sup> There are three key equality statutes: The Women's Equal Rights Law – 1951, The Prevention of Sexual Harassment Law – 1998, and The Equal Rights for People with Disabilities Law – 1998.

<sup>2</sup> Section 1(a) of The Basic Law: Human Dignity and Liberty states that, "The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a *Jewish and democratic state*" (emphasis added). Even the Basic Law: Freedom of Occupation, which provides "every Israeli national or resident" constitutional protection "to engage in any occupation, profession or trade," includes the term "Jewish and democratic" in its statement of purpose.

<sup>3</sup> See, e.g., Justice Aharon Barak's ruling in 2006 in H.C. 7052/03, *Adalah v. The Minister of the Interior*. "The right to equality is an integral part of the right to human dignity. Recognition of the constitutional aspect of equality derives from the constitutional interpretation of the right to human dignity. This right to human dignity is expressly recognized in the Basic Law. Notwithstanding, not all aspects of equality that would have been included, had it been recognized as an independent right that stands on its own, are included within the framework of human dignity. Only those aspects of equality that are closely and objectively connected to human dignity are included within the framework of the right to human dignity."

- **The enactment of new laws that discriminate against Palestinian Arab citizens of Israel**

The national legal/constitutional framework in Israel has allowed Israel to enact over 40 laws that are discriminatory on their face, in that they relate only to the rights of Jewish citizens or abridge the rights of Arab citizens, or else use neutral language and general terminology, but have a discriminatory effect on Arab citizens of Israel.<sup>4</sup> These discriminatory laws are found in the Basic Laws and sources of Israel law. They limit the citizenship rights, political participation rights, land and housing rights, culture rights, education rights, and religious rights of the Palestinian minority in Israel. See *Annex I* for a list of new discriminatory laws.

Since Israel was last reviewed by the Committee in 2007, a large number of new discriminatory laws have been enacted by the Knesset.<sup>5</sup> The situation deteriorated further from 2009, when general elections brought one of the most right-wing government coalitions in the history of Israel come to power. Members of Knesset (MKs) immediately introduced a flood of discriminatory legislation that directly or indirectly targets Palestinian Arab citizens of Israel. These new laws and bills seek, inter alia, to dispossess and exclude Arab citizens from the land; turn their citizenship from a right into a conditional privilege; undermine the ability of Arab citizens of Israel and their parliamentary representatives to participate in the political life of the country; criminalize political expression or acts that question the Jewish or Zionist nature of the state; and privilege Jewish citizens in the allocation of state resources. Recently, the government and Knesset have also begun to consider a wave of anti-democratic bills that not only target Arab citizens of the state but also seek to impose severe restrictions on human rights organizations, the media, and the Supreme Court.

New laws that discriminate against Arab citizens of Israel enacted in 2011 include:

- The “**Admissions Committee Law**,”<sup>6</sup> which *de facto* bans Arab citizens of Israel from living in hundreds of agricultural and small community towns built on state land throughout Israel (see below for more details);
- The “**Nakba Law**,”<sup>7</sup> which authorizes the Finance Minister to cut state funding or support to an institution if it holds an activity that rejects the existence of Israel

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<sup>4</sup> The Jewish character of the state is evident in numerous Israeli laws. The most important immigration laws – *The Law of Return (1950)* and *The Citizenship Law (1952)* – allow Jews to freely immigrate to Israel and gain citizenship, but exclude Arabs who were forced to flee their homes in 1947 and 1967. Israeli law also confers special quasi-governmental standing on the World Zionist Organization, the Jewish Agency, the Jewish National Fund and other Zionist bodies, which by their own charters cater only to Jews. Various other laws such as *The Chief Rabbinate of Israel Law (1980)*, *The Flag and Emblem Law (1949)*, and *The State Education Law (1953)* and its 2000 amendment give recognition to Jewish educational, religious, and cultural practices and institutions, and define their aims and objectives strictly in Jewish terms.

<sup>5</sup> For more information, see Adalah, *New Discriminatory Laws and Bills in Israel*, June 2011: [http://www.adalah.org/upfiles/2011/New\\_Discriminatory\\_Laws.pdf](http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf); Adalah, *New Discriminatory Laws and Bills in Israel*, November 2010: <http://www.adalah.org/newsletter/eng/nov10/nov10.html>; Adalah, *10 Discriminatory Laws*, June 2010: <http://www.adalah.org/eng/10.php>

<sup>6</sup> See Adalah, “Adalah Petitions Supreme Court to Demand Cancellation of New ‘Admission Committee Law’”, 31 March 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=31\\_03\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=31_03_11); Adalah, “Supreme Court Issues Show Cause Order against Admissions Committee Law”, 20 June 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=20\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=20_06_11)

as a “Jewish and democratic state” or commemorates “Israel’s Independence Day or the day on which the state was established as a day of mourning.” The law violates the rights of Arab Palestinian citizens of Israel to freedom of expression and to preserve their history and culture, and stands to cause major harm to the principle of equality. It deprives Arab citizens of their right to commemorate the Nakba, an integral part of their history;

- An amendment to the **Israel Lands Law** that prevents the sale of land in Israel or the renting of property for a period of over five years or the bequeathing or transfer of private ownership rights to “foreigners”, a definition that includes Palestinian refugees – the original owners of the land (see below for more details);<sup>8</sup>
- An amendment to the **Absorption of Discharged Soldiers Law** that grants additional benefits to discharged Israeli soldiers, above and beyond the current basket of benefits they are entitled to. Under the new law, any registered university or college student who has completed his or her military service and is a resident of a designated “National Priority Area” such as the Naqab, the Galilee or the illegal Jewish settlements in the West Bank will be granted a “compensation package” including full tuition for the first year of academic education, a year of free preparatory academic education, and additional benefits in areas like student housing.<sup>9</sup> In general, Palestinian Arab citizens of Israel are exempt from military service and thus they are excluded from receiving these state-allocated benefits and discriminated against on the basis of their national belonging.

- **The continued extension of the validity of the Citizenship and Entry into Israel Law – 2003 (ban on family unification between Palestinian families)**

The Citizenship and Entry into Israel Law – 2003 is one of the most discriminatory laws in the State of Israel. It remains in force today, despite strong international criticism and repeated calls to revoke the law, including by the Committee,<sup>10</sup> and the fact that it was enacted as a temporary order. The law bans Palestinians from the Occupied Palestinian Territory (OPT) who marry citizens of Israel from obtaining any legal status in Israel. It therefore prevents Palestinian citizens of the state – since it is

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<sup>7</sup> See Adalah, “Adalah, ACRI, Parents and School Alumni Petition Supreme Court: Nakba Law is Unconstitutional, Allow Freedom of Speech”, 5 May 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=05\\_05\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=05_05_11). See also, Excerpts in English from Adalah and ACRI’s petition to the Supreme Court challenging the Nakba Law (HCJ 3429/11, *The Alumni Association of the Arab Orthodox School in Haifa et al. v. The Knesset, et al.*): <http://www.adalah.org/upfiles/Excerpts%20from%20Nakba%20Petition%20English%20Final.pdf>

<sup>8</sup> For a commentary on the law, see Adalah Attorneys Haneen Naamih and Suhad Bishara, “The Law of the Promised Land 2011 – Between Absentees and Foreigners,” *Adalah’s Newsletter*, vol. 82, May 2011: [http://www.adalah.org/upfiles/2011/Haneen\\_Suhad\\_Promised\\_Land.pdf](http://www.adalah.org/upfiles/2011/Haneen_Suhad_Promised_Land.pdf)

<sup>9</sup> See Adalah, *New Discriminatory Laws and Bills in Israel*, June 2011: [http://www.adalah.org/upfiles/2011/New\\_Discriminatory\\_Laws.pdf](http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf)

<sup>10</sup> The Committee on the Elimination of Racial Discrimination in its special decisions of 2003 (Decision 2/63) and 2004 (Decision 2/65) and Concluding Observations of 2007, para. 20 (CERD/C/ISR/CO/13); the Human Rights Committee in its Concluding Observations of 2003, para. 21 (CCPR/CO/78/ISR, par.21) and 2010, para. 15 (CCPR/C/ISR/CO/3); the Committee on the Elimination of Discrimination

Against Women in its Concluding Observations of 2005, para. 33-34 (CEDAW/C/ISR/CO/3) and 2011, para. 24-25 (CEDAW/C/ISR/CO/5).

overwhelmingly Palestinian citizens who marry Palestinians from the OPT – from realizing their right to a family life in Israel solely on the basis of their national belonging. At the same time, the “gradual process” of naturalization for residency and citizenship status in Israel for other “foreign spouses” is unchanged.

The law was last extended by the Knesset on 23 July 2011 for an additional six months, and is currently valid until 31 January 2012, when a further extension is expected. There are no indications that Israel is planning to revoke the law.

There have been several important developments regarding this law since the Committee’s last review of Israel in 2007. In March 2007, the Knesset passed a new amendment that expanded the ban on family unification to citizens of “enemy states”, namely Syria, Lebanon, Iraq and Iran, and to “anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out,” according to security reports presented to the government. In June 2008, the Gaza Strip was added to this list, thereby nullifying the limited possibilities for any family unification between citizens of Israel and residents of Gaza.

A Supreme Court petition filed by Adalah in 2007 against the new amendment remains pending.<sup>11</sup> At a hearing on the case held in March 2010, the Supreme Court ordered the state to provide updated data, within thirty days, on the number of requests for family unification, the number of requests that were denied, and the number of people who entered Israel on the basis of family unification and were found by the state to have been “involved in operations against state security”<sup>12</sup>

The state submitted its response to the court on 13 April 2010.<sup>13</sup> According to the response, between 2001 and April 2010, 54 persons who had received status in Israel through family unification procedures were either “directly involved in terrorist attacks” or prevented from carrying out such attacks at the last minute. However, the state failed to provide any details about the nature of the involvement of these 54 persons in the reported attacks or attempted attacks. Nor did it provide any information on how many of them had been arrested, detained, released, indicted, convicted or sentenced for any of these activities or detail the gravity of their alleged actions. The state did not provide the court with any data about applications or involvement of persons from “enemy states,” strongly suggesting that there is no factual basis for the sweeping ban on family unification with non-Jewish nationals from these states.

Furthermore, previous information supplied by the state casts serious doubt on these general claims. Following a prior request for more detailed information submitted by Adalah in December 2008, the state responded that just *seven* persons who had received status in Israel through family unification procedures had been indicted for security-related offenses, that only *two* of these had then been convicted, and that

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<sup>11</sup> HCJ 830/07, *Adalah v. The Minister of the Interior, et al.* (case pending for final decision).

<sup>12</sup> For more information, see Adalah, “Eleven Justice Panel of Israeli Supreme Court Holds Hearing on Citizenship Law Case; Court Orders State to Provide New Data on Why the Law is Needed for Security Reasons,” 14 March 2010: [http://www.adalah.org/eng/pressreleases/pr.php?file=14\\_3\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=14_3_10)

<sup>13</sup> The state’s response in Hebrew is on file with Adalah.

these two persons had already completed their sentences, which suggests that the offenses were relatively minor.

Given the numbers involved, the law is totally sweeping in its application and completely disproportionate to the alleged security reasons cited by Israel to justify its enactment. The “humanitarian committee” that was set up to review family unification applications approved of just 33 cases from 600 applications between November 2008 and April 2010, a relatively insignificant number. The law, which established this committee, does not define the term “humanitarian” but does specifically state that the need for children to live with their parents does *not* constitute a humanitarian consideration that would justify granting the right to family unification.<sup>14</sup>

The ban on family unification adversely affects thousands of families and severely violates the fundamental rights of individuals to family life, privacy, protection for the child, equality before the law, and protection of minorities, as provided for by Articles 1, 2, 5 and 6 of the Convention.

- **The state’s failure to implement court judgments and its own commitments in discrimination cases**

Compounding the problem of the lack of constitutional protection against racial discrimination for all citizens within the Israeli legal system is the current weakness of the rule of law, as evidenced in the state’s failure to implement positive Supreme Court decisions providing effective protection and remedies against discriminatory policies and practices. This lack of implementation has affected a number of Adalah’s cases in which the organization sought the court’s intervention to protect the rights of the Arab minority in Israel.<sup>15</sup> In February 2011, former deputy Attorney General (AG) Yehudit Karp wrote to the current AG Yehuda Weinstein, expressing her deep concern about the lack of implementation of court decisions. Karp urged the AG to amend a directive on the obligation of the state to comply with court rulings to encompass both interim decisions and orders of the court, as a “violation of interim orders of the court that are not rulings, and of governmental commitments or undertakings made before the court, is no less harmful to the rule of law than the harm caused by non-compliance with a ruling.”<sup>16</sup>

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<sup>14</sup> For more information, see Physicians for Human Rights-Israel, *No civil status, no hope: A close look at the “Humanitarian” Committee of the Citizenship Law*, July 2010: <http://www.phr.org.il/uploaded/Microsoft%20Word%20-%20Humanitarian%20Committee%20PositionPaper%20English%20July10%202.pdf>

<sup>15</sup> See, e.g., Adalah, “Education Ministry Ignores Israeli Supreme Court Decision Ordering the Opening of the First High School in Arab Bedouin Unrecognized Village of Abu Tulul in the Naqab”, 29 September 2009: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_09\\_29\\_9](http://www.adalah.org/eng/pressreleases/pr.php?file=09_09_29_9); Adalah, “The Israeli Government Fails to Implement Supreme Court Decisions concerning Arab Bedouin Schools in the Naqab”, 11 October 2011: [http://www.adalah.org/eng/pressreleases/11\\_10\\_11.html](http://www.adalah.org/eng/pressreleases/11_10_11.html)

<sup>16</sup> For the English translation of Yehudit Karp’s letter to the AG, see: [http://www.adalah.org/upfiles/2011/Yehudit\\_Karp\\_English.pdf](http://www.adalah.org/upfiles/2011/Yehudit_Karp_English.pdf)



## **2. The situation of the Palestinian Arab national minority in Israel, including the Arab Bedouin in the Naqab (Negev) (Articles 1, 2, 3, 5 and 6 of the Convention)**

(a) *The Palestinian Arab national minority in Israel*

- **Discrimination in access to and use of ‘state land’**

In its reports to the Committee, Israel states that, “there exist in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind” (p. 32). This statement is false. In fact, new legislation that harms the access of Arab citizens to state land resources in Israel has recently been enacted by the Knesset. In addition, the Jewish National Fund (JNF) and the Jewish Agency (JA), which each play a major role in the control and distribution of land in Israel, continue to allocate land exclusively to Jewish citizens.

*Amendment (2010) to the Negev Development Authority Law (1991) – Individual settlements*<sup>17</sup>

This law allows for the retroactive legalization of all existing individual settlements (farms) and for the allocation of additional land for new individual settlements in the Naqab. “Individual settlements” are a tool used by the state to provide individual Israeli Jewish families with hundreds and sometimes thousands of dunams of land for their exclusive use, and keep it out of the reach of Arab citizens of Israel in the Naqab. The individual settlements were originally established without permission and outside of the planning process, and in violation of existing land master plans. While these individual settlements are being retroactively legalized, the Arab Bedouin population of the Naqab is being squeezed onto ever-smaller pockets of land.

In 2006, Adalah submitted a petition to the Supreme Court<sup>18</sup> against the approval District Master Plan 4/14/42 of the Regional Council of Ramat HaNegev in the Southern District (the “Wine Path Plan”), which seeks to establish 30 individual settlements by retroactively legalizing existing settlements and allowing for the construction of a number of new ones. Many of the individual settlements are located in close proximity to the Arab Bedouin unrecognized villages, which are denied official status and basic services. In June 2010, the Supreme Court decided that the planning authorities’ decision to approve the “Wine Path Plan” fell within planning policies and that the court had no authority to intervene.<sup>19</sup> In its decision, the court did not address the petitioners’ arguments about the disparate impact of the plan, specifically the unequal distribution of land and discrimination against the Arab Bedouin unrecognized villages.

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<sup>17</sup> To read the text of the law (in Hebrew), please see: <http://www.knesset.gov.il/Laws/Data/law/2250/2250.pdf> (pp. 591-593).

<sup>18</sup> HCJ 2817/06 *Adalah, et al. v. The National Council for Planning and Building, et al.* (decision delivered 15 June 2010).

<sup>19</sup> See Adalah, “Israeli Supreme Court Upholds Planning Authority Decision to Establish Individual Settlements in the Naqab as part of its “Wine Path Plan” Despite Discrimination against Arab Bedouin Unrecognized Villages,” 28 June 2010:

[http://www.adalah.org/eng/pressreleases/pr.php?file=27\\_06\\_10\\_2](http://www.adalah.org/eng/pressreleases/pr.php?file=27_06_10_2)

### *The Admissions Committees Law – 2011*<sup>20</sup>

This law gives admission committees, bodies that select applicants for housing units and plots of land, full discretion to accept or reject individuals from these towns. Admissions committees operate in a total of 702 agricultural and small community towns built on state land throughout the state, including those located in the Naqab and Galilee that are covered by the law. They make up 68% of all towns and villages in the state, and 84% of all rural towns and villages.<sup>21</sup> As a result of the operation of admissions committees, Arab citizens are filtered out and *de facto* excluded from living in these towns, in addition to other marginalized groups.

Under the law, one of the five members of an admissions committee of a community town must be “a representative of the Jewish Agency for Israel or the World Zionist Organization.”<sup>22</sup> While one of the law’s provisions states a duty to respect the right to equality and prevent discrimination, the law allows these committees to reject applications from people deemed “unsuitable to the social life of the community... or the social and cultural fabric of the town,” thereby legitimizing the exclusion of entire groups. The Israel Land Administration (ILA) originally instituted arbitrary and exclusionary criterion of “social suitability”<sup>23</sup> in order to bypass the landmark Supreme Court decision in *Qa’dan* from 2000,<sup>24</sup> in which the court ruled that the state’s use of the Jewish Agency to exclude Arab citizens from state land constituted discrimination on the basis of nationality.

The new law also authorizes admissions committees to adopt criteria determined by individual community towns themselves based on their “special characteristics”, including those community towns that have defined themselves as having a “Zionist vision”. However, the majority of these towns do not have special social or cultural characteristics that would justify subjecting residency applicants to tests of “social suitability”.

In a significant legal breakthrough, on 13 September 2011, the Israeli Supreme Court accepted a petition (in part) filed by Adalah in 2007 on behalf of the Zubeidats, a married Arab couple, against the community town of Rakefet and the Israel Land

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<sup>20</sup> To read an English translation of the law, please see: [http://www.adalah.org/upfiles/2011/discriminatory\\_laws\\_2011/Admissions\\_Committees\\_Law\\_2011\\_English.pdf](http://www.adalah.org/upfiles/2011/discriminatory_laws_2011/Admissions_Committees_Law_2011_English.pdf). To read the original text of the law in Hebrew, please see: <http://www.knesset.gov.il/Laws/Data/law/2286/2286.pdf> (pp. 683-686).

<sup>21</sup> Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2011*, No. 62, Table 2.9. The Admissions Committees Law authorizes “admission committees” to operate in around 440 agricultural and small community towns built on state land in the Naqab and Galilee. These communities together comprise 75% of the total number of towns and villages in the Naqab and Galilee, and 86% of rural towns and villages in these areas.

<sup>22</sup> The other four members are, “two representatives of the community town; a representative of the movement with which the community town is affiliated or in which it is a member, and if the community town is not affiliated with a movement as stated or a member in it, or if the movement waives representation – an additional representative of the community town; [...] and a representative of the regional council under whose jurisdiction the community town is located.” Article 6B(B)(1) of the Admissions Committees Law – 2011.

<sup>23</sup> ILA Council Decision No. 1015 of 1 August 2004 (amended by ILA Council Decision No. 1195 of 15 March 2010).

<sup>24</sup> HCJ 6698/95, *Qa’dan v. The Israel Land Administration, et al.*, P.D. 54(1) 258, decision delivered March 2000.

Authority (formerly the Israel Land Administration – ILA).<sup>25</sup> The Court ordered the town to award a plot of land to the Zubeidats for building a house in Rakefet within 90 days. The court’s decision followed an extraordinary decision by the acting General Director of the ILA to admit the Zubeidats to Rakefet, contrary to the decision of the admissions committee to reject them on the grounds of “social unsuitability,” and contrary to the recommendation of the ILA’s Appeals Committee. A further petition filed by Adalah against the Admissions Committee Law remains pending before the Supreme Court, containing principle arguments against the operation of admissions committees.<sup>26</sup>

In its response to the Zubeidats’ petition, the Misgav Regional Council (which has jurisdiction over Rakefet and numerous other towns in the north of Israel) stated that the cancellation of admission committees would, “mean the cancellation and negation of the legitimate interest of social coherence, the existence of a community with social solidarity, and the preservation of the Israeli Zionist way of life in the central Galilee.”<sup>27</sup> It added, “The purpose of pre-settlements [community towns] was to strengthen the Israeli Zionist existence in the central Galilee. The perception was that there is no sovereignty in the Jewish and democratic state without actual settlement that identifies with the principles of such a state and with the Zionist ethos.”<sup>28</sup> These statements make clear the exclusionary purpose and character of the admissions committees.

*The Israel Lands Law (Amendment No. 3) – 2011.*<sup>29</sup>

This law, which passed in March 2011, prevents any person or party (public or private) from selling or leasing land or property for more than five years or from bequeathing or transferring private ownership rights in Israel to “foreigners”. There may be exceptional cases whereby special permission is granted by the head of the ILA Council, after being advised by a special sub-committee established for this purpose, which must consult with the Ministries of Defense and Foreign Affairs and other bodies. Under the law, “foreigners” are any persons who are not residents or citizens of Israel, or Jews, who have the automatic right to immigrate to Israel under the Law of Return – 1950. Thus, under the law Palestinian refugees – the original owners of the land, who are entitled to the return of their properties under

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<sup>25</sup> HCJ 8036/07, *Fatina Ebriq Zubeidat, et al. v. The Israel Land Administration, et al.*, decision delivered 13 September 2011. See Adalah news update, 14 September 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=14\\_09\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=14_09_11). See also Adalah news update, 27 July 2010: [http://www.adalah.org/eng/pressreleases/pr.php?file=27\\_07\\_10\\_1](http://www.adalah.org/eng/pressreleases/pr.php?file=27_07_10_1)

<sup>26</sup> The petition was filed by Adalah on behalf of civil society organizations that represent groups whose exclusion from community towns is justified under the law. The case will be heard by an expanded panel of nine justices. *HCJ 2504/11, Adalah, et al. v. The Knesset, et al.* (case pending). A petition against the new law was also filed by the Association for Civil Rights in Israel. See Adalah news update, 31 March 2011: [http://www.old-adalah.org/eng/pressreleases/pr.php?file=31\\_03\\_11](http://www.old-adalah.org/eng/pressreleases/pr.php?file=31_03_11). See also, [Human Rights Watch, Israel: New Laws Marginalize Palestinian Arab Citizens](http://www.hrw.org/news/2011/03/30/israel-new-laws-marginalize-palestinian-arab-citizens), 30 March 2011: <http://www.hrw.org/news/2011/03/30/israel-new-laws-marginalize-palestinian-arab-citizens>

<sup>27</sup> Article 39 of the response of the Misgav Regional Council in HCJ 8036/07 (Hebrew). On file with Adalah.

<sup>28</sup> Article 68 of the response of the Misgav Regional Council in HCJ 8036/07.

<sup>29</sup> To read an English translation of the law, please see: [http://www.adalah.org/upfiles/2011/discriminatory\\_laws\\_2011/Israel\\_Lands\\_Law\\_2011\\_English.pdf](http://www.adalah.org/upfiles/2011/discriminatory_laws_2011/Israel_Lands_Law_2011_English.pdf). To read the original text of the law in Hebrew, please see: <http://www.knesset.gov.il/Laws/Data/law/2291/2291.pdf> (pp. 754-756).

international law – become “foreigners”, along with all other persons who do not hold Israeli citizenship or residency, with the exception of Jewish people. In the past, Israeli law has considered the Palestinian refugees as “absentees” whose property and property rights Israel undertook to preserve until the conclusion of a political solution to the conflict. The law also prevents Palestinian citizens of Israel from bequeathing their land to their Palestinian relatives abroad who are not citizens of Israel.<sup>30</sup>

*The Jewish National Fund (JNF) and the Jewish Agency (JA)*

The JNF and JA each play a major role in the control and distribution of land in Israel, which they use to channel these resources exclusively to Jewish citizens. The JNF, which owns around 13% of land in the State of Israel, has adopted a clear and public position against the principle of equality in land rights, and distributes the vast areas of land under its control to Jewish people only, completely excluding Palestinian citizens of the state. In response to a Supreme Court petition filed by Adalah to challenge the ILA’s policy, the JNF argued that, “As the owner of JNF land, the JNF does not have to act with equality towards all citizens of the state,” and that, “Its loyalty is to the Jewish people and its responsibility is to it alone.”<sup>31</sup> Under the Israel Land Administration Law, 6 of 14 seats on the ILA Council are awarded to the JNF.<sup>32</sup>

In its reports to the Committee, Israel writes that the ILA and the JNF signed an agreement of principles to allow for equal access to JNF land “in a manner which protects both the principle of equality and the aims of the JNF” (p. 103), a statement which is self-contradictory: according to Article 2 of this agreement of principles, signed on 26 May 2009, JNF land is to be administered by the ILA “according to the principles of the JNF in relation to its properties”, i.e. JNF properties will be distributed only to Jewish people, through long-term leases.

While the JA is not a holder of land in Israel, it plays a major role in the distribution of land to Jewish citizens through the operation of admissions committees. According to Article 6B(B)(1) of the Admissions Committees Law – 2011 (see above), one of the five members of an admissions committee of a community town must be “a representative of the Jewish Agency for Israel or the World Zionist Organization.” The JA also plays a major role in the development and settlement of new Jewish-only towns through valuable contracts that it signs with the ILA.

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<sup>30</sup> See Adalah Attorneys Haneen Naamnih and Suhad Bishara, “The Law of the Promised Land 2011: Between Absentees and Foreigners,” *Adalah’s Newsletter*, vol. 82, May 2011: [http://www.adalah.org/upfiles/2011/Haneen\\_Suhad\\_Promised\\_Land.pdf](http://www.adalah.org/upfiles/2011/Haneen_Suhad_Promised_Land.pdf)

<sup>31</sup> The Jewish National Fund’s Response to HCJ 9205/04, *Adalah v. The Israel Land Administration*, et al., and HCJ 9010/04, *The Arab Center for Alternative Planning and the Association for Civil Rights in Israel v. The Israel Land Administration*, et al., para. 250.

<sup>32</sup> Immediately after the enactment of the law, the government instituted a temporary measure to reduce the membership of the ILA Council from a total of 14 to 8 members, including two JNF representatives.

- **Restrictions on participation in the political and electoral systems**

*Overview*

Several laws restrict participation in the political and electoral systems for Palestinian citizens of Israel and their elected representatives. The laws, inter alia, set forth various ideological limitations on the eligibility of political parties and individual candidates to run in Knesset elections, as follows:

- A party or individual candidate may be banned from participating in elections on the basis of **denial of the existence of the State of Israel as a “Jewish and democratic state** in addition to alleged “support of armed struggle, of an enemy state or of a terrorist organization.” Attempts to disqualify Arab political parties and candidates were made on this basis in the 2003, 2006 and 2009 rounds of Knesset elections.<sup>33</sup>
- Candidates who wish to run for Knesset office must declare as follows: “I commit myself to uphold loyalty for the State of Israel to avoid acting in contradiction to Article Section 7A of The Basic Law: The Knesset.”<sup>34</sup>
- Political parties may be denied registration rights if its goals or actions, directly or indirectly, “support armed struggle of an enemy state or of a terrorist organization, against the State of Israel.”<sup>35</sup>
- The exemption of MKs to travel lawfully to states defined as “enemy states” – such as Syria, Lebanon, Iraq and Iran – by Israel law was lifted in 2002; as these states are all Arab and/or Muslim states. Arab MKs are the main victims and targets of this ban.<sup>36</sup>
- The immunity law was amended in 2002 to the effect that any statement or action, which “supports an armed struggle against the State of Israel,” is deemed not to be an official part of an MK’s duties. Statements or acts that fall outside of a MK’s official duties are not protected by his parliamentary immunity, and thus may be criminally prosecuted.<sup>37</sup>
- An amendment to the law was enacted in 2008 that mandated that citizens who have visited enemy states without permission from the Interior Minister during the seven years preceding the date of submitting the list of candidates for elections may be banned from running in the Knesset elections.<sup>38</sup>

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<sup>33</sup> The Basic Law: The Knesset, Amendment 35 – 2002, Section 7A, entitled “Prevention of participation in the elections.” See Adalah briefing paper:

[http://www.adalah.org/features/political/Briefing\\_paper\\_on\\_disqualifications\\_jan\\_2009%5b1%5d.doc](http://www.adalah.org/features/political/Briefing_paper_on_disqualifications_jan_2009%5b1%5d.doc)

<sup>34</sup> The Law of Election (1969), Amendment 46 – 2002, Section 57.

<sup>35</sup> The Law of Political Parties (1992), Amendment 12 – 2002, Article 5, entitled, “Limitations on Registering a Political Party.”

<sup>36</sup> Order for the extension of the Validity of Emergency Regulations (Foreign Travel) (1948), Amendment 7 – 2002.

<sup>37</sup> The Law of Immunity of Members of Knesset: Their Rights and Their Duties (1951) (Amendment 29), 22 July 2002.

<sup>38</sup> The Basic Law: The Knesset, Amendment 39 (Candidate who Visited a Hostile State Illegally) – 2008, Section 7Aa(1). The explanatory notes to the amendment emphasize that it was formulated in the context of recent visits by Arab Knesset members to Arab states.



### *Attempts to disqualify Arab political parties from Knesset elections*

Each recent election cycle has witnessed attempts by the former Attorney General and right-wing political parties and Members of Knesset (MKs) to disqualify Arab parties and individual MKs from running in the elections to the Knesset. These ongoing attempts seek to limit the political voice of Arab citizens within the legislature and entrench their political marginalization.

Most recently, the Central Elections Committee (CEC) voted to ban two Arab parties from running in the 2009 Knesset elections: The National Democratic Assembly (NDA)-Balad and the United Arab List and Arab Movement for Change (UALAMC). The disqualification motions centered on the parties' political platforms and statements by their leaders demanding, e.g., the establishment of a "state for all its citizens" or allegations of supporting terrorism by traveling to or assisting travel to "enemy states" and "enemy entities", under Section 7A of The Basic Law: The Knesset ("Prevention of participation in the elections"). In response to the CEC's decision to ban the two parties, which was supported by the Likud, Labor and Kadima political parties, Adalah filed a Supreme Court appeal arguing that banning the parties from standing for election would deny the Arab minority an effective vote and harm their constitutional rights to elect their own representatives and run for elected political office. In January 2009, an expanded nine-justice panel of the Supreme Court overturned the CEC's decisions to ban the parties.<sup>39</sup>

### *Attacks on the Arab political leadership in Israel*

**MK Mohammed Barakeh** (Head of the Democratic Front for Peace and Equality, "al-Jabha" or "Hadash") has been a member of the Knesset since June 1999. He was criminally indicted in November 2009 on four counts of allegedly assaulting or insulting a police officer and a right-wing activist during four different demonstrations against the Separation Wall in the OPT, the Second Lebanon War, and the October 2000 killings of 13 Arab citizens of Israel. MK Barakeh has attended hundreds of demonstrations at which he mediated between protesters and the police. Police/security forces sometimes turn violent against demonstrators, and in some cases MK Barakeh was assaulted and submitted complaints to the authorities, which were subsequently closed.<sup>40</sup>

About his case, MK Barakeh stated that, "The content of the indictment, consisting of four charges, the conduct of the trial, and the justifications used by the AG's Office to

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<sup>39</sup> H.C. 561/09, *The National Democratic Assembly and the United Arab List and Arab Movement for Change, v. The Central Elections Committee and the Attorney General*. Similarly, Adalah represented Arab MKs and Arab political parties before the CEC and the Supreme Court against motions filed by the Attorney General and right-wing political parties to disqualify them from running in the 2003 Knesset elections, also based on their political or ideological positions. An expanded 11-justice panel of the Supreme Court overturned the decisions of the CEC to ban the parties on 9 January 2003. See Election Appeal 131/03, *Balad – The National Democratic Assembly v. the Central Elections Committee*; Election Confirmation 50/03, *Central Elections Committee v. Azmi Bishara*; Election Confirmation 11280/02, *Central Elections Committee v. Ahmed Tibi*.

<sup>40</sup> See Adalah, "Urgent Intervention on Behalf of MK Barakeh Demanding Criminal Investigation into Security Forces Personnel who Assaulted Anti-Wall Demonstrators," 25 April 2005:

[http://www.adalah.org/eng/pressreleases/pr.php?file=05\\_04\\_29](http://www.adalah.org/eng/pressreleases/pr.php?file=05_04_29)

date prove once again what we have known all along, that we are facing a dangerous case of political persecution that aims to deter activists and Arab citizens of Israel as a whole from conducting political activity, as well as the forces that support them and share in their struggle.”

The Inter-Parliamentary Union’s (IPU) Committee on the Human Rights of Parliamentarians affirmed in March 2010 that leading and participating in demonstrations was an integral part of the parliamentary mandate. It noted its concern that the charges were brought against MK Barakeh years after the events, and that complaints filed on his behalf against persons who attacked him and other protestors had not been investigated.<sup>41</sup>

At a court hearing on 26 October 2011, the Tel Aviv Magistrates’ Court issued a decision dismissing two of the four charges.<sup>42</sup> The dismissal of the two charges occurred during the preliminary proceedings in the case, i.e. before examination of the substance of the charges against him, showing that the indictment is weak and should be dismissed in full. The court scheduled a new hearing date in April 2012 to hear the remaining two charges on the indictment sheet, which MK Barakeh rejects in full.

**MK Haneen Zoabi** is a member of the National Democratic Assembly-Balad political party. She was elected to the Knesset in 2009, the first woman to be elected to the Knesset as a representative of an Arab political party. She participated in the Gaza Freedom Flotilla in May 2010. As a result of her participation, the Knesset decided to revoke some of MK Zoabi’s parliamentary privileges. On 7 November 2010, Adalah submitted a petition to the Supreme Court against the Knesset’s decision, on behalf of MK Zoabi and ACRI.<sup>43</sup> On 26 April 2011, the Supreme Court ordered the Knesset to explain its decision to revoke her privileges within 30 days. The case remains pending. On 18 July 2011, the Knesset Ethics Committee additionally decided to suspend MK Zoabi’s permission to participate in debates in all plenum and committee sessions during the final two weeks of the Knesset’s session (until 3 August 2011). The Ethics Committee declared that her role as a passenger aboard the flotilla has “harmed national security and [was] inconsistent with the legitimate conduct of a lawmaker” and that she had “overstepped legitimate protest activity by a Knesset member against government policy.” In October 2011, the court decided to expand the panel to 11 justices; a date for the hearing has not yet been set.

Revoking MK Zoabi’s rights restricts the right to freedom of political expression of the representatives of the Arab minority in the Knesset, and creates a dangerous precedent that allows the majority to “punish” minority representatives for political activity with which they disagree. It also completely contradicts the primary purpose

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<sup>41</sup> Inter-Parliamentary Union (IPU) communication, on file with Adalah.

<sup>42</sup> See *Adalah*, “Tel Aviv Magistrates’ Court Dismisses Two of Four Charges against Arab MK Mohammed Barakeh,” 26 October 2011: [http://www.adalah.org/eng/pressreleases/26\\_10\\_11\\_1.html](http://www.adalah.org/eng/pressreleases/26_10_11_1.html)

<sup>43</sup> HCJ 8148/10, *Zoabi v. The Knesset*; see *Adalah*, “Israeli Supreme Court Orders Knesset to Explain Decision Revoking Parliamentary Privileges of MK Haneen Zoabi,” 27 April 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=27\\_04\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=27_04_11); and *Adalah*, “Supreme Court Hears Petition against Revocation of MK Haneen Zoabi’s Parliamentary Privileges; Critiques Attorney General’s Failure to Attend,” 28 March 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=28\\_03\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=28_03_11)

of parliamentary immunity, which is to protect the right to political action of all parliamentary representatives on an equal basis.

The Inter-Parliamentary Union's (IPU) Committee on the Human Rights of Parliamentarians issued a number of important decisions in July 2010 concerning the revocation of MK Haneen Zoabi's parliamentary privileges including:<sup>44</sup>

“[The IPU] considers that, in revoking these parliamentary privileges, the Knesset punished Ms. Zoabi on account of her having exercised her freedom of speech by expressing a political position through her participation in the Gaza-bound convoy; considers punishment for the expression of a political position to be unacceptable in a democracy, and emphasizes that, on the contrary, democracy requires and indeed thrives on the expression and debate of different views, necessarily including those critical of government policies.”

**MK Said Naffa** is a member of the National Democratic Assembly-Balad, and has been an MK since April 2007. On 26 January 2010, the Knesset House Committee voted to revoke his parliamentary immunity in order to allow the Attorney General to criminally indict him for various offenses surrounding a visit he made to Syria, considered an “enemy state” under Israeli law.<sup>45</sup> Three years ago, MK Naffa arranged for a group of 280 Druze religious clerics to make a pilgrimage to holy sites in Syria after they were repeatedly refused a permit by the Interior Minister. MK Naffa argues that the clerics were unfairly and arbitrarily denied their religious freedom. MK Naffa is also accused of contact with a foreign agent; he denies meeting Palestinian leaders in Syria.

MK Naffa maintains that his visit was entirely political in nature and that the Knesset's actions are designed to prevent him from fulfilling the role as an MK. Adalah represented MK Naffa at a hearing held before the AG and senior officials from the State Prosecutor's Office in March 2009. The State Prosecutor informed Adalah that an indictment against MK Naffa would soon be submitted to court.

- **Restrictions on the right to demonstrate**

The police routinely use force against and arrest Arab citizens of Israel as a deterrent against demonstrating, in order to silence voices of dissent.

Adalah published a report entitled “Prohibited Protest: How the Law Enforcement Authorities Limited the Freedom of Expression of Opponents to the Military Attacks on Gaza”<sup>46</sup> in 2009, which exposed the ways in which the Israeli law enforcement

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<sup>44</sup> See *Inter-Parliamentary Union*, CASE No. IL/04 – Haneen Zoabi – Israel, 12-15 July 2010:

<http://www.adalah.org/newsletter/heb/jul10/docs/IPU.pdf>

<sup>45</sup> Adalah, “Knesset Committee strips Arab MK Sa'id Naffaa of his parliamentary immunity; Attorney General to criminally indict him for political offenses surrounding his visit to Syria; Adalah to represent MK Naffaa,” 28 January 2010:

[http://www.adalah.org/eng/pressreleases/pr.php?file=28\\_01\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=28_01_10)

<sup>46</sup> Adalah, *Prohibited Protest: How the Law Enforcement Authorities Limited the Freedom of Expression of Opponents to the Military Attacks on Gaza*, September 2009:

<http://www.adalah.org/features/prisoners/protestors%20report.pdf> (full report in Hebrew);



agencies responded to the wave of anti-war protests by Palestinian Arab citizens of Israel in 2008-2009.<sup>47</sup> The findings of the report indicate that the law enforcement authorities adopted a “no tolerance” policy towards demonstrators opposed to the military attacks on Gaza in almost every location in which protests were held, even in places that did not witness any violence. This policy was manifested by the dispersal of demonstrations, police violence against demonstrators, and the systematic arrests and detention of demonstrators. The report also reveals how the law enforcement authorities, the courts and even certain academic institutions acted to use arrest and imprisonment as quick and easy tools to suppress protests by opponents of the military aggression, crushing the rights of Arab and some Jewish citizens of Israel to express their dissent.

*Al Araqib, an unrecognized Arab Bedouin village in the Naqab*

The unrecognized Arab Bedouin village of Al-Araqib has been completely demolished dozens of times by the Israeli law enforcement authorities, starting from July 2010. The nearly 300 residents of Al-Araqib, half of whom are children, have been living on and cultivating their ancestral land for decades. The families of Al-Araqib returned to their lands in 1998 and began their struggle for recognition of the village from the state, after being removed from their land in 1951 by the state. All the land in Al-Araqib remains legally disputed.

At dawn on 27 July 2010, the people of Al-Araqib awoke to find themselves surrounded by police officers, some on horseback. The police, carrying guns, tear gas, truncheons and other arms, declared the village a “closed area” and ordered the residents to leave their homes within two minutes, warning that they would be forcibly evicted if they resisted. No less than 1,300 police officers began to demolish the homes while the residents tried to salvage their belongings. A helicopter flew above the village throughout the 13-hour demolition, which razed the 45 homes to the ground and uprooted around 4,500 olive trees. Left homeless and stripped of their belongings, the authorities not only required that the residents pay NIS 22,500 (about \$6,000) to retrieve their property, but the police claim to be taking steps to charge the residents of Al-Araqib with demolition expenses that the Israeli government has incurred.

In August 2010, in response to the initial demolitions, Adalah requested an immediate criminal investigation into police officers’ violent destruction of the village and the use of brutal force against residents, leaders and activists. As a result of the state’s increasingly aggressive demolition campaign, the villagers are living in makeshift tents and have attempted to rebuild their village following each demolition. Many activists and villagers, both adults and children, have been arrested and injured but vow to remain and keep rebuilding until the government recognizes their rights to their ancestral land.

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[http://www.adalah.org/features/prisoners/GAZA\\_REPORT\\_ENGLISH\\_FOR\\_THE\\_NEWSLETTER.pdf](http://www.adalah.org/features/prisoners/GAZA_REPORT_ENGLISH_FOR_THE_NEWSLETTER.pdf) (executive report in English).

<sup>47</sup> See Adalah, “New Adalah Report Reveals how Israeli Police, Prosecutor, GSS and Courts Suppressed Protests by Arab Citizens of Israel against Military Attacks on Gaza,” 22 September 2009: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_09\\_22](http://www.adalah.org/eng/pressreleases/pr.php?file=09_09_22)

The State of Israel issued ten additional indictments since the beginning of 2011 against protestors on numerous charges, including acquiring territory by force, violating a legal order, assaulting police officers, and insulting public officials. Some of the indictments apply to a number of defendants.<sup>48</sup>

#### *Nakba Day protestors*

In May 2011, several demonstrators were arrested in Israel while participating in a non-violent protest to commemorate the 63rd anniversary of the Palestinian Nakba.<sup>49</sup> The demonstration was held near to Kufr Bir'im, a destroyed Palestinian village in the north of Israel. These protestors attempted to reach the Lebanese border but the Israeli police did not allow their buses to continue in that direction, stating that the area was a closed military zone. Two other protestors traveling on a bus from Jerusalem were also prevented by police from joining the demonstration near Kufr Bir'im. When one of the demonstrators asked a police officer why they were not permitted to hold a peaceful demonstration, he slapped her, an assault that was caught on video. The detainees were badly beaten by the police, as shown in the photographs taken of them in the court and videos that were taken during the demonstrations. As was well-documented in the media, Palestinian refugees from Lebanon and Syria also held demonstrations near the borders with Israel calling for the Right of Return.

#### *Palestinian prisoners*

A number of demonstrators were also arrested in October 2011 while protesting against the imprisonment of Palestinian political prisoners.<sup>50</sup> The group of political activists arrived at the area of the HaSharon Prison in Israel to protest against the exclusion of some Palestinian women prisoners from the Gilad Shalit prisoners' swap deal concluded between Israel and Hamas. The moment that they arrived, representatives of the police and the Israel Prison Service (IPS) asked them to hold the protest in an adjacent area and not on the prison grounds. They also told the demonstrators that they had to stop their demonstration before 5 o'clock pm, less than an hour after it started. However, shortly before this deadline had passed, a group of policemen arrived and ordered the demonstrators to stop immediately on the ground that it was "illegal" and to disperse immediately. While the demonstrators were making their way to the bus and their cars, the policemen began to assault those who were still outside the bus without warning, and tried to arrest them all merely for being present at the site.

Detained protestors are often denied bail or release under *The Criminal Procedure (Powers of Enforcement, Detentions) Law (1996)*. The reason usually cited by the authorities is that, if released, they could endanger state security or public safety, disrupt the investigation or influence witnesses. If the case proceeds to prosecution,

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<sup>48</sup> Adalah, "Adalah Representing Protestors against Home Demolitions in Unrecognized Arab Bedouin Village of Al-Araqib in the Naqab", 18 May 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=18-2\\_05\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=18-2_05_11)

<sup>49</sup> Adalah, "Magistrates' Court Released Six Detainees of the Nakba Demonstrations in Israel to House Arrest for Four Days", 18 May 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=18-1\\_05\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=18-1_05_11); Adalah, "Adalah: Investigate Police Assault on Nakba Day Demonstrators in Israel", 20 June 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=20-2\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=20-2_06_11)

<sup>50</sup> Adalah, "Ten Days after Arrest of HaSharon Prison Protestors, Israeli Court Agrees to Transfer Seven of the Detained Demonstrators to House Arrest", 30 October 2011: [http://www.adalah.org/eng/pressreleases/30\\_10\\_11.html](http://www.adalah.org/eng/pressreleases/30_10_11.html)

suspects are generally charged under the Penal Code on charges such as taking part in a prohibited assembly (Article 151) or rioting (Article 152). Adalah has received many complaints over the years from Arab protestors who were beaten by police officers and then themselves charged with the crime of assaulting a police officer (Articles 273 and 274), and/or with interrupting police officers in the course of carrying out their duties (Article 275).

- **Ongoing lack of accountability for the October 2000 protest killings**

Eleven years have now passed since the October 2000 events in which 13 Palestinian Arab citizens of Israel were killed by the Israeli police and security forces, and hundreds of others were wounded. None of the police, police commanders or political leaders have yet been brought to justice. In 2008, following an official commission of inquiry and investigations by the Ministry of Justice's Police Investigation Unit (Mahash), the former Israeli Attorney General (AG) Menachem Mazuz decided to close all case files into the October 2000 killings with no indictments submitted against any police officer or commander or any political leader responsible for the deaths.<sup>51; 52</sup>

Adalah has called for the re-opening of investigations and for the establishment of an independent committee with the power to issue indictments and published a new report in October 2011 entitled *The Accused – Part II*, which exposes serious conflicts of interest in Israel's state investigatory bodies regarding the October 2000 killings.<sup>53</sup>

In its reports to the Committee, Israel states that the AG's decision not to file any indictments against the suspects was made on the basis that "investigative material did not provide a sufficient evidentiary foundation" (p. 50). The AG's decision, however, deviates from established legal custom regarding the evidentiary threshold required for the purpose of filing an indictment. The Supreme Court of Israel has determined that evidence on which an indictment is based should establish a "reasonable prospect for conviction". However, the evidentiary threshold that was adopted by the AG in reaching his decision on the events of October 2000 was that there should be full and unequivocal evidence leaving no reasonable room for doubt in filing indictments against those responsible for the killings.

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<sup>51</sup> In response to this decision, Adalah stated its intention to seek international justice in these cases, as all domestic legal proceedings had been exhausted. See Adalah, "Adalah: We will Seek the Establishment of an Independent, Impartial Investigatory Committee with the Participatory of International Experts in Response to AG Mazuz's Decision to Close the October 2000 Killings Cases," 29 January 2008: [http://www.adalah.org/eng/pressreleases/pr.php?file=08\\_01\\_29](http://www.adalah.org/eng/pressreleases/pr.php?file=08_01_29)

<sup>52</sup> Professor Philip Alston, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, criticized the Attorney General's decision in the October 2000 killings cases in his report of May 2008 to the UN Human Rights Council. Professor Alston concluded that the Attorney General's decision not to issue indictments "would appear to fall short of international standards." See <http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A-HRC-8-3.doc>

<sup>53</sup> Adalah, *The Accused – Part II* (Executive Summary), October 2011: [http://www.adalah.org/features/october2000/The\\_Accused\\_Report\\_II.doc](http://www.adalah.org/features/october2000/The_Accused_Report_II.doc). See also Adalah, "Adalah's New Report Exposes Serious Conflicts of Interests in Israel's State Investigatory Bodies regarding the October 2000 Killings of 13 Arab Citizens", 25 October 2011: [http://www.adalah.org/eng/pressreleases/9\\_10\\_11.html](http://www.adalah.org/eng/pressreleases/9_10_11.html); Adalah, *The Accused – Part I* (Executive Summary), October 2006 : <http://www.adalah.org/features/october2000/accused-s-en.pdf>

Decisions were biased in such a way as to shield the suspected police officers/commanders from indictment and prevent an accurate account of the events from coming to light. It should be emphasized that the Or Commission of Inquiry into the October 2000 events found in its report of September 2003 that there was no legal justification for the opening of fire by the Israeli security forces in any of the 13 killings cases.

- **Attacks on human rights organizations and human rights defenders**

In its reports to the Committee, Israel erroneously writes that “all Israeli NGOs are treated equally” (p. 10). A number of recently-enacted laws and new bills seek to impose severe restrictions on human rights organizations in Israel.<sup>54</sup> These are part of the ongoing attempts by the right-wing to delegitimize human rights organizations (HROs) in Israel that work to defend the rights of Palestinians.

These new laws include the “**NGO Foreign Government Funding Law**”, passed in February 2011, which imposes more invasive financial reporting requirements on NGOs; and the “**Anti-Boycott law**”,<sup>55</sup> passed in July 2011, which prohibits the public promotion of boycott, even of products from the illegal Israeli settlements in the OPT. The anti-boycott law seriously harms freedom of expression and association, as it targets non-violent public expressions of opposition to Israeli policies.

A series of new bills have been recently introduced, which seek to impose severe restrictions on human rights organizations’ ability to receive foreign funding and, by extension, to operate.<sup>56</sup> Two of these bills were initially approved by the Ministerial Committee on Legislation on 13 November 2011:

- “The Associations Law (Amendment – Banning Foreign Diplomatic Entities’ Support of Political Associations in Israel),” which attempts to set monetary limitations on Israeli human rights organizations.<sup>57</sup> According to this bill, an Israeli NGO that seeks to influence state policies (defined as “a political organization”) would not be allowed to receive donations of more than NIS 20,000 (roughly US \$6,000 or EUR 4,000). It was tabled by an MK for the Likud political party.
- “Bill for amendment of the Income Tax Order (Taxation of public institutions that receive donations from a foreign state entity) – 2011”, which seeks to amend the Income Tax Order so that funding from foreign state entities to Israeli NGOs will

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<sup>54</sup> Adalah, *New Discriminatory Laws and Bills in Israel*, June 2011:

[http://www.adalah.org/upfiles/2011/New\\_Discriminatory\\_Laws.pdf](http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf)

<sup>55</sup> Adalah, PHR-I, PCATI and the Coalition of Women for Peace, “The anti-boycott law harms freedom of expression and targets nonviolent political opposition to the Occupation”, 12 July 2011:

[http://www.adalah.org/upfiles/2011/12\\_July\\_2011\\_antiboycott.pdf](http://www.adalah.org/upfiles/2011/12_July_2011_antiboycott.pdf)

<sup>56</sup> See the Association for Civil Rights in Israel’s position paper on these bills, November 2011:

<http://www.acri.org.il/en/wp-content/uploads/2011/11/2billsletter.pdf>

<sup>57</sup> For an unofficial translation of the bill, see: <http://www.acri.org.il/en/wp-content/uploads/2011/06/Akunis-Fiscal-Limitations-on-Foreign-Funding-to-NGOs-ENG-June202011.doc>

be subject to a 45% taxation rate.<sup>58</sup> This bill is liable to prevent foreign governments from funding such organizations. It was tabled by an MK for Yisrael Beiteinu.

Prime Minister Netanyahu shelved both of these bills indefinitely following intense international pressure.

In response, on 30 November 2011, MKs for Yisrael Beiteinu and the Likud tabled a new bill. The Attorney General of Israel has announced that this third bill is unconstitutional and that he would not defend it before the court.<sup>59</sup> Hillary Clinton and the US State Department, and the EU have spoken out strongly against this bill:

- “Bill regarding income of public institutions receiving contributions from a foreign political entity (legislative amendments) – 2011.” The bill threatens to ban all foreign state funding to NGOs that undertake activities deemed to negate the existence of the State of Israel, incite to racism, support an armed struggle against Israel, support universal jurisdiction cases against Israeli officials and soldiers, advocate conscientious objection to military service in Israel, or support a boycott of Israel or Israeli citizens.<sup>60</sup> The bill also subjects any contribution from a foreign government to a public institution to a 45% income tax rate unless it gains a special exemption. However, it excludes organizations that receive funding from the State of Israel from these draconian restrictions.

In an extraordinary step, on 6 December 2011, Israeli Attorney General, Yehuda Weinstein, addressed a letter to Prime Minister Binyamin Netanyahu in which he described these bills as unconstitutional and anti-democratic, and that he would not defend them before the Supreme Court if they became law.<sup>61</sup>

In addition to these bills restricting foreign state funding to NGOs, new legislation was also proposed to restrict human rights organizations in their petitioning of Israel’s Supreme Court.<sup>62</sup> This bill was voted down unanimously at the end of November.

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<sup>58</sup> For an unofficial translation of the bill, see: <http://www.acri.org.il/en/wp-content/uploads/2011/07/Kirshenbaum-Income-Tax-ENG.doc>

<sup>59</sup> See Tomer Zarchin and Jonathan Lis, “AG to Netanyahu: Bills targeting Israeli rights groups’ funds are unconstitutional,” *Ha’aretz*, 7.12.2011, available at: <http://www.haaretz.com/print-edition/news/ag-to-netanyahu-bills-targeting-israeli-rights-groups-funds-are-unconstitutional-1.400002>

<sup>60</sup> See, e.g., *JNews*, “New Bill Restricting foreign funding to Israeli NGOs back on agenda,” 1 December 2011: <http://www.jnews.org.uk/news/new-bill-restricting-foreign-funding-to-israeli-ngos-back-on-agenda>. Includes an unofficial translation of the bill to English.

<sup>61</sup> See, e.g., Tomer Zarchin and Jonathan Lis, “AG to Netanyahu: Bills targeting Israeli rights groups’ funds are unconstitutional,” 7 December 2011: <http://www.haaretz.com/print-edition/news/ag-to-netanyahu-bills-targeting-israeli-rights-groups-funds-are-unconstitutional-1.400002>; “Fitting advice,” *Ha’aretz*, 8 December 2011: <http://www.haaretz.com/print-edition/opinion/fitting-advice-1.400275>

<sup>62</sup> See, e.g., *Ha’aretz*, “Israeli Justice Minister asked to drop High Court petitions law,” 25 November 2011: <http://www.haaretz.com/print-edition/news/israeli-justice-minister-asked-to-drop-high-court-petitions-law-1.397548>; *Ha’aretz*, “Deputy PM threatens resignation over bill to limit Israel High



This legislative campaign has been accompanied by an ongoing media campaign by governmental officials as well as right-wing organizations to portray human rights organizations as enemies or a threat to the state.

- **Socioeconomic disadvantage and high levels of poverty**

Economic disparities underlie and exacerbate many other inequalities. Taking income as an indicator of socio-economic status, according to official state statistics, the gross average monthly income for an Arab employee in 2009 was NIS 5,348 compared to a monthly gross income of NIS 8,779 for a Jewish employee, i.e. 39% less, despite the larger average size of Arab families.<sup>63</sup> The Arab minority in Israel is at a socioeconomic disadvantage compared to the Jewish population and is over-represented among the country's poor. This socioeconomic disadvantage is a result of "deeply imbedded discriminatory social attitudes, practices and laws" against Arab citizens, which cause substantial disadvantage in educational attainment, access to healthcare, housing and land, and unemployment.<sup>64</sup>

According to information published by Israel's National Insurance Institute in 2011, there was an increase of 1.2% in the number of Arab families living below the poverty line between 2009 and 2010, compared to a decrease of 8.3% in the number of Jewish families living below the poverty line in the same period.<sup>65</sup> Additionally, in 2009, 14,300 of the 15,000 families that were added to the poor population (95.3%) were Arab families.<sup>66</sup> These statistics call into question the efficacy of any measures taken to fight poverty among the most marginalized and disadvantaged groups in society, which include Arab citizens of Israel.

- **Pay gaps and obstacles to employment for Arab citizens, men and women**

The hourly wage of an Arab male is on average 30% lower than that of a Jewish male with the same level of education.<sup>67</sup> In 2009 the gross income per work hour among Arab citizens was 32.4% less than among "Jews and others", at 32.1 NIS compared to 47.5 NIS.<sup>68</sup> According to the OECD, in 2007 the wage gap between Arab and Jewish men was widest among skilled workers and clerical, sales and service workers: the wage of Arab employees in these occupations was 69-71% of the wage of comparable

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Court," 26 November 2011: <http://www.haaretz.com/news/national/deputy-pm-threatens-resignation-over-bill-to-limit-israel-high-court-1.397855>

<sup>63</sup> Israeli Central Bureau of Statistics, *Gross Income per Employee, by Population Group, Continent of Birth, Period of Immigration and Sex*, Table 25: <http://www1.cbs.gov.il/www/publications11/1439/pdf/t25.pdf>

<sup>64</sup> The Human Rights Committee in its Concluding Observations of 1998, para. 12 (CCPR/C/79/Add.93).

<sup>65</sup> The National Insurance Institute, Trends in Developments in poverty and Standards of Living for the First Half of 2010, 11 March 2011 (Hebrew): [http://www.btl.gov.il/Publications/oni\\_report/Documents/oni0311.pdf](http://www.btl.gov.il/Publications/oni_report/Documents/oni0311.pdf)

<sup>66</sup> Response of the State of Israel to the Committee on Economic, Social and Cultural Rights List of Issues, September 2011, pp. 115 (E/C.12/ISR/3).

<sup>67</sup> Dr. Yosef Jabareen, *Employment of Arabs in Israel*, The 18<sup>th</sup> Caesarea Forum, June 2010: <http://www.idi.org.il/sites/english/events/TheAnnualEconomicForum/Pages/EconomicConference2010.aspx>

<sup>68</sup> Response of the State of Israel to the Committee on Economic, Social and Cultural Rights List of Issues, September 2011, pp. 103-105 (E/C.12/ISR/3).

Jewish workers.<sup>69</sup> The hourly wage of unskilled Arab workers and of Arab men in academic and associated professions was 80-82% of that of comparable Jewish workers.<sup>70</sup> For women, the wage gap was widest among skilled workers and academics: Arab women in these professions earned 70-75% of the wage of comparable female Jewish employees.<sup>71</sup> Furthermore, there are larger differences in wages based on type of occupation among Jews, which may demonstrate a greater return for education and professional training for Jewish workers than Arab workers.<sup>72</sup>

Arab women face discrimination in employment on the basis of gender: according to official state statistics, the average gross monthly income of a female employee in 2009 was NIS 6,280, 66% of that of a male employee. Part of the discrepancy in employee income can be attributed to differences in working hours: female employees work an average of 36 hours per week compared to an average of 45 hours among male employees. However, a woman's average income per work hour (NIS 42.6) was still only 85% of that of a male employee (NIS 50.4).<sup>73</sup>

Arab women also experience discrimination in employment on the basis of national origin, and are thus subject to **double-discrimination**. The average monthly income of a female Arab employee stood at NIS 4,387 in 2009, just 65% of that of a female Israeli Jewish employee, at NIS 6,716.<sup>74</sup> According to the OECD, in 2007 the wage gap between Arab and Jewish women was widest among skilled workers and academics: Arab women in these professions earned 70-75% of the wage of comparable female Jewish employees.<sup>75</sup>

Measures taken by the state through the Equal Employment Opportunities Commission to address wages and participation rates of Arab women have thus far been insufficient, as the aforementioned statistics show, together with an extremely low rate of labor force participation among Arab women citizens of Israel – 22.5% in 2010<sup>76</sup> – affirm. Furthermore, the *Equal Employment Opportunities Law* – 1988 and the *Male and Female Workers (Equal Pay) Law* – 1996 are difficult to enforce and employees who do want to bring cases before court are faced with the high cost and time needed to take legal action.<sup>77</sup>

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> OECD, *Labour-Market and Socio-Economic Outcomes of the Arab-Israeli Population*, 18 March 2010:

[http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM\(2010\)2&doclanguage=en](http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM(2010)2&doclanguage=en)

<sup>73</sup> Israeli Central Bureau of Statistics, *Selected Data for International Women's Day 2011*, 6 March 2011: [http://www1.cbs.gov.il/hodaot2011n/11\\_11\\_050e.pdf](http://www1.cbs.gov.il/hodaot2011n/11_11_050e.pdf)

<sup>74</sup> Israeli Central Bureau of Statistics, *Gross Income per Employee, by Population Group, Continent of Birth, Period of Immigration and Sex*, Table 25:

<http://www1.cbs.gov.il/www/publications11/1439/pdf/t25.pdf>

<sup>75</sup> OECD, *Labour-Market and Socio-Economic Outcomes of the Arab-Israeli Population*, 18 March 2010:

[http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM\(2010\)2&doclanguage=en](http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM(2010)2&doclanguage=en)

<sup>76</sup> Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2011*, No. 62, Table 12.1.

<sup>77</sup> OECD, *Reviews of Labor Market and Social Policies: Israel*, 2010, p. 164:

[http://www.hakoled.org.il/webfiles/fck/OECD\\_Reviews\\_of\\_Labour\\_Market\\_and\\_Social\\_Policies.pdf](http://www.hakoled.org.il/webfiles/fck/OECD_Reviews_of_Labour_Market_and_Social_Policies.pdf)

In addition, the inefficacy of an amendment made in 2000 to *The Government Corporations Law (1975)* stipulating fair representation for the Arab population on the boards of directors of government corporations, reveals the inadequate nature of measures taken by Israel to implement this law, in particular with respect to Palestinian women. Despite this legislation, as of July 2009, only 5.2% of sitting board members of governmental corporations were Arab men and just 2.7% Arab women citizens of Israel.<sup>78</sup> Further, the representation of Arab citizens has increased very little over time. In terms of the representation of women on these boards, while Israeli Jewish women's representation increased from 7% to 37.6% between 1994 and July 2009, the representation of Arab women has remained nearly static, at around 1-2% of the total.<sup>79</sup>

Furthermore, discrimination in the labor market is widely recognized as a likely determinant of employment and wage rates.<sup>80</sup> According to a study conducted in 2009 by Ono Academic College, surveyed employers "expressed hesitation" about the employment of Arab citizens in quality professions.<sup>81</sup> These employers indicated that they tended to pay Arab employees lower salaries and assumed that Arab employees would have a harder time integrating into work teams and meeting job demands. The most significant obstacle for the employers was a lack of military service, which they believed was a "platform for personal growth."

- **Unemployment rates**

Israel's reported unemployment rate in the civilian labor force is 6.7%.<sup>82</sup> The rate of unemployment within the civilian labor force (ages 15-64) is 11.1% for Arabs, compared to 6.9% for Jews. The gap is higher for women: the rate of unemployment for Arab women (15.4%) is almost double that of Jewish women (7.5%). However, only 28.3% of Israel's working population was eligible for unemployment benefits in 2010.<sup>83</sup> According to Israel's responses, this low eligibility is the result of "several legislation amendments" that took place in 2002-2003, which included extending the qualification period for unemployment benefits, even though *shortening* the qualification period is necessary for the provision of an effective safety net.<sup>84</sup>

Israel's spending in the area of social policy declined from its peak in 2002 (18.9% of GDP) to 15.8% of GDP in 2007, approximately six points below the OECD average, as a result of decreasing income transfers and benefits to the working-age population

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<sup>78</sup> Data sent by the Authority for Governmental Corporations to Sikkuy—The Association for the Advancement of Civil Equality in Israel, dated 6 July 2009. According to this data, as of 6 July 2009, Jewish men accounted for 54.3% of the sitting board members of governmental corporations, Jewish women 37.6%, Arab men 5.2%, and Arab women 2.7%.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Ono Academic College, *Excluded – Educated People in Quality Professions in Israeli Society*, Kiryat Ono, 11 November 2009 (excerpts) (Hebrew).

<sup>82</sup> Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2010*, No. 62, Table 28.11.

<sup>83</sup> Response of the State of Israel to the Committee on Economic, Social and Cultural Rights List of Issues, September 2011, pp. 108-109 (E/C.12/ISR/3)

<sup>84</sup> OECD, *Reviews of Labor Market and Social Policies: Israel*, 2010, p. 22:

[http://www.hakoled.org.il/webfiles/fck/OECD\\_Reviews\\_of\\_Labour\\_Market\\_and\\_Social\\_Policies.pdf](http://www.hakoled.org.il/webfiles/fck/OECD_Reviews_of_Labour_Market_and_Social_Policies.pdf)



(including unemployment benefits).<sup>85</sup> These policies, combined with lax labor law enforcement,<sup>86</sup> are detrimental to vulnerable workers, including Arab employees. In 2010, the OECD found that, “Arab workers get little help in pursuing their rights vis-à-vis their employees.”<sup>87</sup>

In addition, relatively few professional training programs have been provided by the state, and Israel’s Employment Service has a budget equating to just 0.02% of GDP, which is twenty times lower than the average in OECD countries (at 0.4% of GDP).<sup>88</sup>

The public employment service is under-staffed, resulting in high caseload-to-staff ratios that restrict the effectiveness of support to the unemployed.<sup>89</sup> These policies can obstruct the search for full-time work.

These unemployment policies are indicative of a more widespread government failure to address economic burden and social inequality felt by lower- and middle-class Israeli citizens. Following the wave of social protests beginning in July 2011 to demand social justice, the government established a Committee on Socioeconomic Change. This committee, also known as the Trajtenberg Committee, submitted its recommendations to the government on 26 September 2011. As the Committee states in its report, “The failures of government have significant implications for the standard of living, equality, and for the ability of Israel to flourish.”<sup>90</sup>

Initially, the fourteen members appointed to the Trajtenberg Committee did not include any Arab representation; Mr. Ayman Saif was the only Arab citizen to be appointed to the additional team of economic experts.<sup>91</sup> Following protest at the lack of Arab representation and the scarcity of women on the committee, Dr. Rabia Basis, a Druze woman, was added to its housing committee.<sup>92</sup>

The recommendations of the Trajtenberg Committee have met with much disappointment from the protest leaders, opposition parties, and major coalition partners. These individuals argue that greater change is necessary and expected, and that some demands were neglected in the Committee’s report. The Committee’s recommendations consider main concerns of the Israeli Jewish community in Israel, while neglecting serious areas of concern for Arab citizens of Israel in employment, housing and others matters. One recommendation of concern is, for example, to

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<sup>85</sup> Ibid. p. 18.

<sup>86</sup> Ibid. p. 20.

<sup>87</sup> Ibid. p. 27.

<sup>88</sup> OECD, *Reviews of Labor Market and Social Policies: Israel*, 2010, p. 103:

[http://www.hakoled.org.il/webfiles/fck/OECD\\_Reviews\\_of\\_Labour\\_Market\\_and\\_Social\\_Policies.pdf](http://www.hakoled.org.il/webfiles/fck/OECD_Reviews_of_Labour_Market_and_Social_Policies.pdf)

<sup>89</sup> Ibid. p. 107.

<sup>90</sup> Meirav Arlosoroff, “Bottom Shekel / They wanted social justice? They got it,” *Haaretz*, 27 September 2011.

<sup>91</sup> The Abraham Fund Initiatives, “Trajtenberg Committee does not include Arab representation—Abraham Fund’s appeal to Professor Trajtenberg,” 9 August 2011:

<http://www.abrahamfund.org/main/siteNew/?page=52&action=sidLink&stId=2565>

<sup>92</sup> Dahlia Scheindlin, “Arab social justice needs heard by the gov’t—what about J14?” 30 August 2011.

increase rates of national service and tying workforce development to national service, which is adamantly rejected by the Arab community.<sup>93</sup>

- **Using national or military service requirements as a main means of discrimination**

The use of the military service criterion as a condition for acceptance for employment is a major means of discrimination against Palestinian citizens of Israel. It is also often used to exclude them from jobs, frequently when there is no connection between the nature of the work and military experience. While the inclusion of military service in a job specification may seem neutral on its face, it has a discriminatory effect on Palestinian citizens of the state, as they are exempted as a group<sup>94</sup> from performing military service on the basis of their national belonging, for political and historical reasons.

Conditioning eligibility for public services and economic benefits on the performance of military or alternative national service is also a main tool employed by the state to channel public funds towards Jewish citizens of the state. Significantly, individuals who have served in the Israeli military already receive substantial compensation under *The Absorption of Discharged Soldiers Law (1994)*, which enumerates the broad range of social and economic benefits to which discharged soldiers are entitled, including housing and educational grants.<sup>95</sup>

In its reports to the Committee, Israel points to the special benefits minority veterans receive, and emphasizes that benefits “are granted to every IDF veteran, regardless of his/her religion” (p. 109). However, only 900 Arab soldiers currently serve in the army (p. 21), and that the rest of the Arab minority is excluded from these benefits, regardless of socio-economic need.

- **Under-representation in the civil service**

The state, the largest employer in Israel, does not enforce *The Equal Opportunities in Employment Law – 1988* on its own practices, and Palestinian citizens of Israel in general remain sorely under-represented in civil service positions. In 2006, Arabs made up just 5.92% of all civil service employees.<sup>96</sup> This under-representation persists despite an amendment made in 2000 to the *Civil Service Law (Appointments) – 1959*, which stipulates fair representation throughout the civil service, and all ministries and affiliated institutions “to both sexes... and... the Arab population including Druze and Circassian.” The situation is even worse for Arab women

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<sup>93</sup> See, e.g., [Mohammad Darawshe](#) and Amnon Be’eri Sulitzeanu, “Israel’s social ‘change’ mustn’t come at expense of its Arab citizens,” *Haaretz*, 16 October 2011: <http://www.haaretz.com/print-edition/opinion/israel-s-social-change-mustn-t-come-at-expense-of-its-arab-citizens-1.390153>

<sup>94</sup> With the exception of men from the Palestinian Druze community, according to an agreement signed between Druze religious leaders and the state in 1956.

<sup>95</sup> See Adalah News Update, “Widening Use of Military Service as a Condition for University and Employment Benefits Discriminates against Arab Citizens of Israel,” 19 September 2010, available at: [http://www.old-adalah.org/eng/pressreleases/pr.php?file=20\\_09\\_10\\_1](http://www.old-adalah.org/eng/pressreleases/pr.php?file=20_09_10_1)

<sup>96</sup> The Civil Service Commission, “Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service,” 2006 (Hebrew).

citizens of Israel: in 2006, just 2% of civil service workers were Arab women.<sup>97</sup> The situation is direr still in the Naqab district, where in 2010 Arab citizens made up less than 1% of civil service employees.<sup>98</sup> These figures seriously call into question the efficacy of the amendment to the Civil Service Law (Appointments) and/or the state's efforts to further its implementation.

A number of government decisions have been issued over the past decade that order the implementation of the law and stipulate interim quotas for the representation of Arab men and women.<sup>99</sup> However, these interim targets have consistently been missed, and the representation of Arab citizens, men and women alike, remains low. In addition, the government and the Knesset's Constitution, Law and Justice Committee recently endorsed a new legislative bill that would grant preference to former soldiers in civil service positions. The bill threatens the even greater exclusion of Arab citizens, especially Arab women from employment since the vast majority of Arab citizens are exempt from performing military service for political and historical reasons.<sup>100</sup>

Arab citizens of Israel employed in government ministries is correspondingly low and inadequate, including in ministries that have a decisive impact on their lives such as the Ministries of Transport (2.3%), Housing (1.3%) and Finance (1.2%). The following table details Arab representation in government ministries.

*Arab representation in Israeli government ministries, 2006*<sup>101</sup>

<b>Ministry</b>	<b>No. of Arab employees</b>	<b>Total no. of employees</b>	<b>% of Arab employees</b>
Health	1,935	26,753	7.2
Education	126	2,031	6.2
Justice	99	2,497	3.9
Industry, Trade & Labor	45	1,326	3.4
Transport	21	881	2.3
Housing	10	730	1.3
Finance	12	954	1.2

The two ministries with the most Arab employees are the Ministries of Education and Health. The vast majority of these employees work in Arab towns and villages or mixed cities providing services directly to Arab communities, as teachers and doctors

<sup>97</sup> The Civil Service Commission, *Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service*, 2006 (Hebrew).

<sup>98</sup> The Negev Coexistence Forum for Civil Equality, *The International Day Against Racism, 21 March 2010, the Situation of the Arab Villages in the Negev*, March 2010 (Hebrew), available at:

[http://www.dukium.org/user\\_uploads/pdfs/doh.pdf](http://www.dukium.org/user_uploads/pdfs/doh.pdf)

<sup>99</sup> These include Government Decision 1832 of 29 April 2004; Government Decision 414 of 15 August 2006; Government Decision 2579 of 11 November 2007; and Government Decision 4437 of 25 January 2009.

<sup>100</sup> For more information, please see Adalah news update, 26 June 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=26-2\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=26-2_06_11)

<sup>101</sup> The Civil Service Commission, "Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service," 2006.

and nurses. Arab professionals are rarely to be found in decision-making positions in the upper echelons of these ministries.

- **Discrimination in education**

Arab school children comprise approximately 25% of the country's school students. From elementary to high school, Arab and Jewish students learn in separate schools. The Ministry of Education severely underfunds Arab schools in Israel, impeding the educational development of Arab children compared to their Jewish counterparts. This under-funding is manifested through poor infrastructure and facilities characteristic of Arab schools and relative overcrowding.

The Israeli Central Bureau of Statistics reports that at primary school level, the average number of pupils in a class in the Hebrew education system in 2009/2010 stood at 24.4 pupils, and in the Arab education system at 28.1 pupils, i.e. an increase of 3.7 pupils on average.<sup>102</sup> Moreover, classroom sizes in the Arab education sector have fallen only marginally over the last decade: in 1999/2000, the average number of pupils in a class in the Hebrew education system was 24.5 pupils, compared to 29.6 pupils in the Arab education system, i.e. a fall in the number of pupils per class of just 1.5 pupils over ten years.<sup>103</sup> The persistent gap in classroom sizes calls into question the adequacy of any measures taken by Israel to reduce the shortage of classrooms in Arab primary schools.

The gap between the Hebrew and Arab education systems is also persistent at the secondary school level. In 2009/2010, there was an average of 26.5 pupils in a class in the Hebrew education system, compared with 29.5 pupils in the Arab education system, i.e. an average gap of 3 pupils.<sup>104</sup> In 1999/2000, there was an average of 27.7 pupils in a class in the Hebrew education system, compared with 30.1 pupils in the Arab education system.<sup>105</sup> In fact, despite the relatively overcrowded situation in Arab secondary schools, over the decade from 1999/2000 to 2009/2010, average class sizes in the Hebrew education system fell twice as quickly as in the Arab education system, by 1.2 pupils compared to 0.6. These figures clearly demonstrate the need for additional investment in the Arab education system to bring down class sizes.

The Education Ministry retains centralized control over the form and substance of the curriculum for all schools in Israel, including Arab schools. *The State Education Law (1953)*, as amended in February 2000, sets educational objectives for state schools that emphasize Jewish history and culture. Article 2 of the law specifies that the primary objective of education is to preserve the Jewish nature of the state by teaching its history, culture, language, and so on. Article 2(11) stipulates that one objective of education is to acknowledge the needs, culture and language of the Arab population in Israel. However, this rather weakly worded article is not being implemented, and this objective has not been realized. In reality, students in Arab state-run schools receive very little instruction in Palestinian or Arab history, literature and culture, and spend more time learning the Torah than the Qur'an or the New Testament. While state

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<sup>102</sup> Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2010*, No. 61, Table 8.7.

<sup>103</sup> Ibid.

<sup>104</sup> Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2010*, No. 61, Table 8.17.

<sup>105</sup> Ibid.

religious schools established only for religious Jewish students maintain autonomous control over their curricula, the curriculum for Arab state schools is entirely determined by the state. While Arab schools do have a separate curriculum taught in Arabic, it is designed and supervised by the Education Ministry, where Arab educators and administrators have little-to-no decision-making powers.

The “Nakba Law”, discussed above, follows a report issued by the Education Ministry entitled “The Government of Israel Believes in Education” in 2009, which instructs that references to the word “Nakba” be removed from new Arabic textbooks.<sup>106</sup>

(b) *The Arab Bedouin in the Naqab (Negev)*

- **Forced displacement and the Praver Plan**

Palestinian Arab Bedouin in the Naqab number between 140,000 – 190,000 people, or about 14% of the total population of the Naqab.<sup>107</sup> Around 60,000 Arab Bedouin live in around 35-40 unrecognized Arab villages throughout the Naqab, referred to by Israel in its reports to the Committee as “unlawful clusters” (p. 110). With no official recognition or status, these villages are excluded from state planning and government maps, have no local councils, and receive little-to-no basic services, including electricity, water, telephone lines, or education or health facilities. The Israeli government views the inhabitants of these villages as “trespassers on state land,”<sup>108</sup> although many have been living on these lands – the ancestral lands of the Arab Bedouin – prior to the establishment of the state in 1948, and although state attempts to assert ownership claims on the land are vehemently disputed. Others, expelled from their ancestral lands by the state, were forced to move to their current locations by the military government imposed on Palestinians in Israel between 1948 and 1966.

Israel is now seeking to evacuate the unrecognized villages<sup>109</sup> and concentrate the Arab Bedouin in the Naqab into the over-crowded and impoverished townships. The state is also seeking to allocate the remaining land to Jewish citizens in order to ensure a Jewish demographic majority in the Naqab. Home demolitions and forced evictions are the most extreme means employed by Israel to force Arab Bedouin to leave their villages.

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<sup>106</sup> Gideon Saar, *The Government of Israel Believes in Education*, August 2009 (Hebrew): [http://meyda.education.gov.il/files/owl/hebrew/alsederhayom/education\\_presentation\\_final\\_opt.pdf](http://meyda.education.gov.il/files/owl/hebrew/alsederhayom/education_presentation_final_opt.pdf).

The report was adopted by the Ministry of Education and is being implemented.

<sup>107</sup> Mustafa, M. and M. Subhi, *Unlicensed: The Policy of Demolishing Arab Homes in Israel*, Center for Contemporary Studies, 2005, p. 48 (Arabic). Of the 14,185,000 dunams of land in the Southern District as a whole, the total number of dunams currently under the jurisdiction of the seven government-planned Bedouin townships in the Naqab is around 60,000 dunams, and a seven further newly-recognized towns have jurisdiction over 34,000 dunams, which combined account for a mere 0.8% of land in the district.

<sup>108</sup> Attorney General’s response to Adalah’s petition H.C. 2887/04, *Salem Abu Medeghem, et al. v. The Israel Lands Administration, et al.* in a case challenging the ILA’s spraying of poisonous material on crops belonging to Arab Bedouin farmers from the unrecognized villages (petition accepted 15 April 2007).

<sup>109</sup> The Praver Plan (Implementation Team of the Goldberg Report for Regulating Bedouin Settlement in the Negev: A Proposed Outline for Regulating Bedouin Settlement in the Negev), approved by the government on 11 September 2011 (Hebrew):

<http://www.pmo.gov.il/NR/rdonlyres/AE7F35E0-B594-4A55-BA2C-136D6575FDB5/0/goldUP.pdf>

Israel refers to the government-planned townships in its reports to the Committee as “effectively provid[ing] a proper solution to the Bedouin population’s needs” (p. 110). This statement is far from the truth. The state omits to mention that the planned townships are crowded, with very little land for economic development, provide few employment opportunities, have the highest rates of unemployment and poverty in the country, and lack many services typical of urban locales such as banks, post offices and libraries.<sup>110</sup> The budgets of these towns are among the lowest in the country.<sup>111</sup> According to rankings provided by the Israeli Central Bureau of Statistics (CBS), the planned townships have the lowest socioeconomic levels in the country.<sup>112</sup> As the table below shows, the seven townships comprise seven of the nine most socio-economically deprived towns in the country, and all are ranked in the lowest socio-economic cluster (1).

<b>Township</b>	<b>Socio-economic ranking<sup>113</sup></b>	<b>Cluster group<sup>114</sup></b>
Rahat	6	1
Hura	8	1
Kseiffa	2	1
Laqiyya	9	1
Arara Banegev	3	1
Segev Shalom	4	1
Tel Sheva	1	1

On 11 September 2011, the Israeli government approved the “Praver Plan,” which will result in the uprooting of around 40,000 Arab Bedouin citizens of Israel from their homes and the demolition of dozens of unrecognized Arab Bedouin villages in the Naqab.<sup>115</sup> The “Praver Plan” was drafted by a governmental committee under the

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<sup>110</sup> See Ismael Abu-Saad, “State rule and indigenous resistance among Al-Naqab Bedouin Arabs,” *HAGAR Studies in Culture, Policies and Identity* 8.2 (2008): 3-24 and Deborah F. Shmueli and Rassem Khamaisi, “Bedouin Communities in the Negev,” *Journal of the American Planning Association* 77.2 (2011): 109-125.

<sup>111</sup> See Shlomo Swirski and Yael Hasson, *Invisible Citizens: Israel Government Policy Toward the Negev Bedouin*. Beer Sheva: Adva Center, Center for Bedouin Studies and Development Research Unit, Negev Center for Regional Development, Ben-Gurion University of the Negev, 2006

<sup>112</sup> See Suleiman Abu-Bader (ed). *The Negev Bedouin Statistical Data Book*, (Trans. Dana Avidan), Be’er Sheva: Ben-Gurion University, 2011

<sup>113</sup> Local authorities are assigned a rank by the socioeconomic level of the residents in each locality; a lower rank indicates a lower socioeconomic level.

<sup>114</sup> Geographic units within Israel that are assigned a rank are also organized in ten clusters according to rank; a lower cluster indicates the grouping has lower socioeconomic levels.

<sup>115</sup> See Adalah, *The Praver Plan and Analysis*, October 2011:

<http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>; Adalah, “Adalah Urges Government of Israel to Reject Praver Report as it Violates the Rights of the Arab Bedouin and will Displace Thousands from their Homes”, 6 September 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=06\\_09\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=06_09_11); Adalah’s Director of the Naqab Project, Dr. Thabet Abu Ras, “The Arab Bedouin in the Unrecognized Villages in the Naqab: Between the Hammer of Praver and the Anvil of Goldberg,” *Adalah’s Newsletter*, vol. 81, April 2011:



chairmanship of Ehud Praver, head of policy planning in the Prime Minister's Office; the Israeli government established the committee in early 2009 to implement the recommendations of the Goldberg Committee. Against all international norms and principles of community participation in planning processes, the Praver Committee did not include any Arab Bedouin in the development of its recommendations, whether through membership in the committee, public hearing, or in response to a request for participation. When the Praver Committee submitted its report to the government in June 2011, it was evident that the Committee had in fact ignored central recommendations made by the Goldberg Committee – including granting recognition to unrecognized villages and freezing home demolitions – as well as its emphasis that the Arab Bedouin in the Naqab (Negev) are equal citizens of the state with historical, ancestral ties to the land. Instead, it proposed compensation schemes and planning measures that clearly reflect the intent to evict the Arab Bedouin and to confiscate their lands permanently.<sup>116; 117</sup>

On 4 September 2011, in anticipation of the vote of the Israeli government, Adalah sent an urgent letter to Prime Minister urging the administration not to approve the Praver Plan.<sup>118</sup> The letter contained information from previously unpublished archival documents dating from the 1950s and 1960s that show that the Ottoman Government and the British Mandatory Authorities officially recognized traditional ownership of land by the Arab Bedouin, and collected taxes on that basis. Archival documents also prove that pre-state authorities recognized transactions of Jewish individuals who purchased land from the Arab Bedouin. Thus Israel's current policy of denying recognition of traditional Bedouin ownership of land completely contradicts historical practices and violates the rights of the Arab Bedouin.

The Praver Plan is divided into two main parts: the first deals with ownership and compensation for land ownership claims, and will be presented by the government as a legislative bill shortly. The second part consists of a planning scheme that will determine where the Arab Bedouin are to be settled by the state. Under the plan, concerning ownership and compensation, the Arab Bedouin who currently reside on and control their ancestral land will be offered 50% of their land so long as the land is not grazing land, and on the condition that the claimant fully relinquishes the first 50% of land to the State of Israel.<sup>119</sup> Those Arab Bedouin who are not presently living on their ancestral lands – often due to repeated internal displacement by Israel – will

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[http://www.adalah.org/upfiles/2011/Thabet\\_English\\_2.pdf](http://www.adalah.org/upfiles/2011/Thabet_English_2.pdf); Alternative Information Center (AIC), video on the Praver Plan, 2011: <http://www.youtube.com/watch?v=OK7WARi6yIE>

<sup>116</sup> Ehud Praver, *Draft 12 – Implementation Team of the Goldberg Report for Regulating Bedouin Settlement in the Negev: A Proposed Outline for Regulating Bedouin Settlement in the Negev*, March 2011.

<sup>117</sup> Thabet Abu Ras, "The Arab Bedouin in the Unrecognized Villages in the Naqab (Negev): Between the Hammer of Praver and the Anvil of Goldberg," *Adalah's Newsletter*, Vol. 81, April 2011:

[http://www.adalah.org/upfiles/2011/Thabet\\_English\\_2.pdf](http://www.adalah.org/upfiles/2011/Thabet_English_2.pdf)

<sup>118</sup> See Adalah news update, 6 September 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=06\\_09\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=06_09_11); see also Adalah's Letter to Prime Minister Benjamin Netanyahu (Hebrew): [http://www.adalah.org/Up/Main/File/letter\\_to\\_government\\_-\\_Naqab\\_9-2011\\_final.doc](http://www.adalah.org/Up/Main/File/letter_to_government_-_Naqab_9-2011_final.doc)

<sup>119</sup> See Government Decision, *Confirming the Recommendations for Regulation of the Bedouin Settlement in the Negev* (confirming the Praver Plan), 11 September 2011, pp. 9, 19 [hereafter: Government Decision].

receive monetary compensation for only 50% of their land claim at rates proposed in the plan, with an opportunity to exchange the money for a residential plot of land in one of the government-planned Arab Bedouin towns in Naqab, the poorest and most socio-economically disadvantaged in the country.<sup>120</sup> Most alarmingly, if Arab Bedouin land ownership claims are not settled in the manner proposed by the Praver Plan within five years, the land will automatically be registered as state land.<sup>121, 122</sup>

The planning scheme component of the Praver Plan concentrates the Arab Bedouin within a small area in the northern Naqab and prohibits any Arab Bedouin settlement west of Route 40. The Praver Plan does not recommend recognition of any of the unrecognized villages, and instead only proposes new Arab Bedouin villages in the “exceptional” circumstance that the displaced Bedouins cannot be fully absorbed into the impoverished government-planned towns or the 11 villages under the jurisdiction of the Abu Basma Regional Council, which have been in a “process of recognition” for almost ten years. People living in these villages still have no access to basic state services such as drinking water, electricity, sewerage, education or health services. Furthermore, the Praver Plan proposes the extraordinary involvement of the Prime Minister’s Office in land planning issues, rather than the National Council for Planning and Building (NCPB), the body authorized legally to deal with land planning, including broad and arbitrary discretion to remove any amount of land from the above-described arrangement.<sup>123; 124</sup>

Adalah endorses the Arab Bedouin community’s rejection of the Praver Plan. Adalah also supports the recommendation of Mr. James Anaya, the UN Special Rapporteur on the rights of indigenous peoples, that Israel enable the Arab Bedouin to “become active participants in and direct beneficiaries of any development initiatives affecting the lands the Bedouin traditionally use and occupy within the Negev (Naqab).”<sup>125</sup> Adalah believes that Israel should rescind its decision to approve the Praver Plan and begin to right the historical wrongs committed against the Arab Bedouin by engaging in a meaningful dialogue with the Arab Bedouin and the leaders of the Arab citizens of Israel, and recognizing the “unrecognized” villages and traditional Arab Bedouin land ownership in the Naqab.

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<sup>120</sup> Ibid. p. 9.

<sup>121</sup> Ibid. p. 30, Article 3.1.

<sup>122</sup> Ehud Praver, *A Report of the Intergovernmental Committee on the Implementation of the Recommendation for Regulation of the Bedouin Settlement in the Negev*, Meeting No. 117, 11 September 2011.

<sup>123</sup> See Government Decision, p. 30. The implication of such involvement was shown in the case of the unrecognized villages of Umm el-Hieran and Atir, which were granted recognition by the NCPB. However, following the intervention of the Prime Minister’s Office, the recognition was rescinded. For more information, see Adalah, “As Requested by the Prime Minister’s Office: The National Council for Planning and Building, in an Exceptional Move, Cancels its Decision to Recognize Two Arab Bedouin Villages in the Naqab (Negev),” 22 November 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=22\\_11\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=22_11_10)

<sup>124</sup> Ehud Praver, *Draft 12 – Implementation Team of the Goldberg Report for Regulating Bedouin Settlement in the Negev: A Proposed Outline for Regulating Bedouin Settlement in the Negev*, March 2011.

<sup>125</sup> *Report by the Special Rapporteur on the rights of indigenous peoples, James Anaya*, A/HRC/18/35/Add.1, para. 21, 22 August 2011:  
<http://www2.ohchr.org/english/issues/indigenous/rappporteur/docs/A-HRC-18-35-Add-1.pdf>



- **The denial of basic rights in the unrecognized villages in the Naqab: Water, health and education**

### *Water*

In the Naqab, Israel is deliberately not providing thousands of Arab Bedouin families with access to clean drinking water due to the unrecognized status of their villages. Most people in the unrecognized villages obtain water via improvised, plastic hose hook-ups or unhygienic metal containers, which transport the water from a single water point located on main roads located far from their homes, causing health risks and daily hardships.<sup>126</sup> The poor quality of their drinking water puts residents of the unrecognized villages at risk of dehydration, intestinal infections and other diseases associated with poor hygiene, such as dysentery.<sup>127</sup> Access to drinking water is a basic right derived from the right to life. The ramifications for health caused by the State's refusal to provide running water to the residents of the unrecognized villages are potentially severe, and have a role to play in the high infant mortality rates among the Arab Bedouin population in the Naqab.<sup>128</sup>

The State of Israel is using the denial of clean, running drinking water as a means of forcing the residents of the unrecognized Arab Bedouin villages to abandon their lands and relocate to the government-planned townships.

For ten years, Adalah has been litigating the right to access to clean, drinking water for Arab Bedouin citizens of Israel living the unrecognized villages before the Supreme Court. On 5 June 2011, the Supreme Court, in a precedent-setting ruling, determined that the right to water was a constitutional right stemming from the right to dignity. However, the court also ruled that the Arab Bedouin citizens of Israel living in the unrecognized villages were only entitled to "minimal access" to water.<sup>129</sup> Nonetheless the court found that three of the villages, which were part of the petition, should be connected to a water supply. Following the ruling, Adalah sent an application to the Israeli Water Board demanding that the three unrecognized villages directly affected by the Supreme Court's decision should be immediately connected to

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<sup>126</sup> To view images of the unhygienic conditions in which many residents of the unrecognized villages have to obtain drinking water, see:

<http://www.adalah.org/images/landday07/slideshow.php?directory=.&currentPic=2>

<sup>127</sup> Expert Opinion of Prof. Michael Alkan, Director of the Institute for Infectious Diseases, the Soroka Medical Center and the Faculty of Health Sciences, Ben-Gurion University, 2005, commissioned by Adalah (Hebrew).

<sup>128</sup> Adalah's appeal on behalf of hundreds of Arab Bedouin families to the Supreme Court against a decision delivered by the Haifa District Court (sitting as a Water Tribunal) upholding rulings of the Water Commissioner and the Israel Land Administration (ILA) not to provide residents of the unrecognized with drinking water has been pending for four years without any decision. According to the Water Tribunal's decision, the right to water is conditional on a "clear" public interest "not to encourage cases of additional illegal settlement" by Arab Bedouin. See C.A. (Civil Appeal) 9535/06, *Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Lands Administration* (case pending).

<sup>129</sup> See C.A. (Civil Appeal) 9535/06, *Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Land Administration*; see also Adalah news update, 6 June 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=06\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=06_06_11)

public water network.<sup>130</sup> The Water Board denied the application, stating that two other solutions existed to ensure access to water for the residents: either they should move from the unrecognized villages to recognized towns, or purchase water tanks and fill them from water connection centers in the recognized towns.<sup>131</sup> These proposals fail to safeguard the basic rights of the villagers.<sup>132</sup> A hearing on the case is scheduled in December 2011.

### *Health*

The health situation is most critical in the unrecognized villages in the Naqab, where the provision of health services is either very limited or non-existent. There are only 12 clinics in the unrecognized villages. These clinics lack specialized medical professionals as well as pharmacies. Furthermore, the staff often does not speak Arabic.<sup>133</sup> Together, these services provide health care to just 20% of the residents of the unrecognized villages.<sup>134</sup> Eleven of these health clinics are affiliated to *Kupat Holim Clalit* (one of the four major health funds in Israel), on which thousands of people rely for health care. However, not one of these clinics employs pediatricians or gynecologists. In response to inquiries made by Adalah and Physicians for Human Rights—Israel, the Ministry of Health stated in May 2009 that the family doctors who currently work in the clinics are sufficient and that the villagers can travel to clinics in neighboring Jewish towns to receive pediatric or gynecological care.<sup>135</sup> According to a newly-enacted law, poor Arab Bedouin families in the Naqab are also at risk of being deprived of vital child allowances unless their children receive vaccinations, despite the ongoing lack of accessible healthcare facilities in the unrecognized villages.<sup>136</sup>

The effects of a lack of healthcare are reflected in high infant mortality rates in the unrecognized villages. From 2005 to 2009, the infant mortality rate in Israel was four deaths per thousand live births.<sup>137</sup> Sub-divided by religion, this rate was 2.9 per thousand live births for Jewish citizens, and 7.1 for other religions.<sup>138</sup> While the infant mortality rate for Jewish citizens is consistently lower than that for non-Jewish citizens, the infant mortality rates for the Arab Bedouin in the unrecognized villages are amongst the highest in Israel. In 2005, the infant mortality rate was 14.7 per

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<sup>130</sup> See Adalah, “Adalah Asks Water Board to Implement Supreme Court Decision and Immediately Connect Three Unrecognized Arab Bedouin Villages in the Naqab to the Water Network,” 15 June 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=15\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=15_06_11)

<sup>131</sup> This correspondence is on file with Adalah.

<sup>132</sup> Following the decision of the Water Board, Adalah filed an appeal to the Haifa District Court sitting as a Water Tribunal on behalf of residents from Umm el-Hieran and Tel Arad, two Arab unrecognized Bedouin villages in the Naqab. The appeal will be heard on 22 November 2011. See Adalah, “Adalah Appeals to Water Tribunal to Connect Arab Bedouin Unrecognized Villages in the Naqab to the Water Network,” 26 September 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=26\\_09\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=26_09_11)

<sup>133</sup> Physicians for Human Rights-Israel, *Israel's Step Children*, November 2008.

<sup>134</sup> Ibid.

<sup>135</sup> Letter on file with Adalah (Hebrew).

<sup>136</sup> Adalah, “Israeli Supreme Court Orders State to Explain Why New Law that Threatens Cuts to Child Allowances for thousands of Arab Bedouin Children is Legal”, 15 September 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=15\\_09\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=15_09_11)

<sup>137</sup> Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2011*, No. 3, Table 32.

<sup>138</sup> Ibid.

thousand live births.<sup>139</sup> The rate decreased in 2006 to 11.9 per thousand live births, but remains much higher than the national average.<sup>140</sup>

### *Education*

According to information published in 2010 by the Knesset's Research and Information Center, there was a total of approximately 107,000 Arab Bedouin children and teenagers in Israel (north and south), of whom just 75,000 (70%) were studying in the education system.<sup>141</sup>

Dropout rates are also alarmingly high in the Arab Bedouin unrecognized villages in the Naqab, where there are still no high schools. Further, as a result of the under-investment in education and schools, in 2009 only 29.4% of the Arab Bedouin pupils in the Naqab who remained in the education system were entitled to a matriculation certification (the *Baghrout*) in grade 12, compared to 52.2% of Jewish pupils and 34.4% of Arab pupils overall.<sup>142</sup> The ongoing lack of schools, particularly but not exclusively in Arab Bedouin communities, is a main contributing factor to the consistently high dropout rates that are recorded in the state Arab education system in Israel, together with systemic underinvestment and overcrowding.

For example, there is a chronic shortage of drop-out counselors (*kabbasim*) in Arab Bedouin schools. In response to a petition submitted by Adalah in 2003,<sup>143</sup> the Supreme Court ruled in 2005 that there was an obvious inequality in the assignment of drop-out counselors among the Arab Bedouin and Jewish communities in the Naqab, and that the principle of equality required the assignment of more counselor positions to regions and communities where the problem of dropping-out is worse. The court further ruled that the state's appointment of drop-out counselor positions should be accomplished within a "reasonable" timeframe. However, in fact, there has been a decline in the appointment of drop-out counselors in Arab Bedouin schools since 2005: according to official statistics, in 2011 just 6 of the recommended 49.9 drop-out counselors (12.02%) were working in schools in the Arab Bedouin towns in the Naqab, a fall from the 8 of 45.8 recommended positions (17.5%) that were working in these towns in 2005.<sup>144</sup>

Further, despite a Supreme Court decision stipulating that the state would establish and operate the first high school in the region of Abu Tlul – El-Shihabi by 1 September 2009, the school has still not been opened. This region is home to approximately 12,000 Arab Bedouin citizens and around 750 female and male students are of high school age;

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<sup>139</sup> Physicians for Human Rights – Israel, *The Bare Minimum: Health Services in the Unrecognized Villages in the Negev*, April 2009: [http://www.phr.org.il/uploaded/PHR%20-%20Bare%20Minimum%20-%20Health%20Services%20in%20the%20Unrecognized%20Villages%20\(3\).pdf](http://www.phr.org.il/uploaded/PHR%20-%20Bare%20Minimum%20-%20Health%20Services%20in%20the%20Unrecognized%20Villages%20(3).pdf)

<sup>140</sup> Ibid.

<sup>141</sup> Knesset's Research and Information Center, "Employment of children from the Bedouin sector in agriculture in South," 21 June 2011: <http://www.knesset.gov.il/mmm/data/pdf/m02568.pdf>

<sup>142</sup> National Council for the Child, "Current data from the yearbook 'Children in Israel – 2010,'" 11 March 2011: <http://www.children.org.il/Files/File/leket%20netunim%202010.doc>

<sup>143</sup> HCJ 6671/03, *Munjid Abu Ghanem, et al. v. The Ministry of Education, et al.* (decision delivered on 24 January 2005).

<sup>144</sup> Knesset's Research and Information Center, "Employment of children from the Bedouin sector in agriculture in South," 21 June 2011: <http://www.knesset.gov.il/mmm/data/pdf/m02568.pdf>

however, only approximately 170 attend high school. The rest, around 77% of the total, drop out of the system permanently, as a direct consequence of the lack of a local high school. The Ministry of Education has argued before the Supreme Court that it has no principle objection to opening a high school on the site, but is conditioning it on continuing the slow-paced planning processes for the area, without a timetable for action. As a result, there is still no deadline scheduled for the opening of the school.<sup>145</sup>

- **Denial of the right to political participation**

No elections have ever been held to the Abu Basma Regional Council in the Naqab, which was established in 2003. Ten villages, with a combined population of around 30,000 Arab Bedouin citizens of Israel, fall within the council's jurisdiction. It also provides education, social welfare and environmental services for 40,000 others living in unrecognized villages. An amendment to the Regional Councils' Law (Date for General Elections) – 2009 allows the Interior Minister to postpone the first elections to the council indefinitely.

Following a petition filed by Adalah and the Association for Civil Rights in Israel (ACRI) in 2010, the Supreme Court ruled on 9 February 2011 that the first local elections must be held in the Abu Basma Regional Council by December 2012, and that they should not be postponed for any reason. The court ordered the Interior Ministry and the current government-appointed head of the council to make all necessary preparations for the elections.<sup>146</sup>

So far no substantial preparations have been made for the elections, including the registration of voters. Arab Bedouin residents living under the jurisdiction of the council have expressed deep concern over Israel's commitment to upholding the Supreme Court decision, particularly following media reports of a statement by Mr. Said Amaade, a representative for the Ministry of Interior that the people of the Abu Basma villages were not prepared for an election.<sup>147</sup>

Further, there are indications that the government intends to avoid the election by re-organizing the Abu Basma Regional Council. Such deliberate reorganization has precedent in the Naqab, specifically in the government-planned Arab Bedouin towns of Hura and Lagiyya where the municipal authorities were also structured so as to avoid local elections<sup>148</sup> The first indicator that the Abu Basma Regional Council will

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<sup>145</sup> See Adalah, "Education Ministry Ignores Israeli Supreme Court Decision Ordering the Opening of the First High School in Arab Bedouin Unrecognized Village of Abu Tulul in the Naqab," 29 September 2009: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_09\\_29](http://www.adalah.org/eng/pressreleases/pr.php?file=09_09_29)

<sup>146</sup> See Adalah, "Israeli Supreme Court: Local Elections must be Held in Abu Basmah Regional Council in the Naqab," 22 February 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=22\\_02\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=22_02_11)

<sup>147</sup> Interviews with Salman Ibn Hamed and Odeh Abu Qrun of Beer Hadaj village, Salman Abu Freiha of Abu Grinat village, and Husein Al Rafayah of Beer el-Hamam, former chairman of the Regional Council of the Unrecognized Villages in the Negev, 25 September 2011.

<sup>148</sup> See Shlomo Swirski and Yael Hasson, *Invisible Citizens: Israel Government Policy Toward the Negev Bedouin*, Adva Center, February 2006, pp. 42-43: <http://www.adva.org/UPLOADED/NegevEnglishFull.pdf>. The regional councils set up to govern these towns were headed by Jewish Interior Ministry appointees who ran the townships from offices in Beer el-Sabe (Be'er Sheva).

be similarly “restructured” is found in Article 7 of the government decision approving the Praver Committee’s Report, where the Interior Ministry is given 60 days to deliberate and decide on the reorganization of the municipal authority in the Bedouin sector (i.e. Abu Basma).<sup>149</sup> Second, the position of Mayor of the Abu Basma Regional Council has been vacant since May 2011, and the fact that no efforts have been made to fill the vacancy either by nomination or election is further indication that the council may be reorganized or dismantled, thereby avoiding elections in December 2012. Should this happen, the state would be in clear contempt of court.

### **3. The right to equal participation in cultural activities of minorities (Articles 1, 2 and 5 of the Convention)**

- **The inferior position of the Arabic language in Israel**

Since the establishment of the State of Israel in 1948, the Arabic language has held the status of an official language, alongside Hebrew. As a result of state policy, however, Arabic is used minimally in the public sphere and by public and official institutions. The status of Arabic is vastly inferior to that of Hebrew in terms of the resources dedicated to its use and the few opportunities granted to Arabic speakers to enjoy and use their language. While the establishment of an Arabic Language Academy and teaching of Arabic in schools, as referred to in Israel’s reports to the Committee (pp. 171-172) are important, the status of Arabic in Israel has come under attack from several directions.

For instance, while over 200 Supreme Court decisions have been translated to English and published on the court’s website, none of these cases have been translated to Arabic. Ministries also routinely refuse to accept official documents in Arabic, including for issues of personal status that are dealt with by the religious courts. Many forms are provided by the *Shari’a* court system in Arabic only and individuals are sometimes required to provide notarized translations of the documents in Hebrew, incurring significant expenses. On 20 April 2010 Adalah sent a letter to the Director of Courts and the Ministry of Justice asking that major decisions with significance for Arabic speakers be translated and published in Arabic on the Supreme Court’s website. The Director of Courts responded on 16 May 2010 that for budgetary reasons the translation of court decisions to Arabic was “complicated” but under consideration. In response to a further letter sent by Adalah after no progress had been made in the issue, the Court Administration replied on 9 August 2011 that it had been unable to find the translators it needed and asked for Adalah’s help in identifying translators.<sup>150</sup>

Meanwhile, mixed cities are also failing to uphold a 2002 Supreme Court decision requiring them to post all road and informational signs in Hebrew and Arabic.<sup>151</sup> The

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<sup>149</sup> Government Decision, Article 7: “Municipal Preparation.”

<sup>150</sup> This correspondence is on file with Adalah (Hebrew).

<sup>151</sup> See e.g., Adalah, “Israeli Supreme Court: Natserat Illit is Clearly in Contempt of Court for Failing to Post Road Signs in Arabic”, 14 April 2011:

[http://www.adalah.org/eng/pressreleases/pr.php?file=14\\_04\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=14_04_11); Adalah, “Israeli Supreme Court Rules to Turn Big Mosque in Beer el-Sabe into an ‘Islamic Museum’”, 24 June 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=24\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=24_06_11)



Municipality of the mixed Arab-Jewish city of Natserat Illit, for example, continues to violate the Israeli Supreme Court's judgment delivered in 2002 on a petition submitted by Adalah and the Association for Civil Rights in Israel (ACRI), which obliges the municipalities in mixed cities to add Arabic to the traffic and warning signs as well as other informational signs in areas under their jurisdiction.<sup>152</sup> In 2011, the municipality continued to request extensions from the court to implement the decision within its jurisdiction. On 13 September 2011, the Supreme Court decided that the Municipality of Natserat Illit must implement the ruling according to a timetable that it suggested in 2008, and ordered it to pay NIS 5,000 in legal expenses.

- **Lack of respect for Arab citizens' right to religion (Muslim, Christian and Druze)**

Israel is failing in its duty to guarantee the preservation and protection of non-Jewish holy sites in Israel, and in many cases to provide access to these holy sites for their respective local and international religious communities. Two major legal developments in the field of religious rights illustrate the lack of enjoyment of the equal right to freedom of religion by members of the Arab national minority in Israel. They call into grave question the statement made in Israel's reports to the Committee that, "Israeli Law grants freedom of worship and ensures the safekeeping of and access to holy places to members of all faiths. Moreover, these sites are guarded by the Police in order to protect public order in these sensitive places" (p. 83).

*The Big Mosque in Beer el-Sabe (Beer Sheva)*

On 22 June 2011, after nearly ten years of deliberation, the Supreme Court of Israel delivered a precedent-setting judgment, ruling that the Big Mosque in Beer el-Sabe (Beer Sheva) in the Naqab (Negev) should be turned into an "Islamic Museum."<sup>153</sup> The petitioners, Muslim religious leaders and community activists represented by Adalah, had asked for the Ottoman-era mosque to be reopened as a place of worship. The Beer el-Sabe Municipality, however, argued that the building should be used as "general museum" and that a mosque in the city would endanger public order and safety. The court ruled that the petitioners could approach the planning authorities to ask that the purpose of the building be changed from a museum to a mosque.<sup>154</sup>

Despite the court's ruling, the municipality continues to use the grounds of the mosque for general community events. With shocking insensitivity to Muslims and Muslim religious groups, the Beer el-Sabe Municipality held a wine and beer festival

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<sup>152</sup> H.C. 4112/99, *Adalah, et al. v. The Municipality of Tel Aviv-Jaffa, et al.* (decision delivered 25 July 2002).

<sup>153</sup> See HCJ 7311/02, *The Association for Support and Defense of Bedouin Rights in Israel, et al. v. The Municipality of Beer Sheva, et al.* (decision delivered 22 June 2011). The Big Mosque, which was built in 1907 and ceased functioning as a place of worship in 1948, is the only mosque in Beer el-Sabe, a city that has 6,000 Arab residents. At the same time, there is approximately one synagogue for every 700 Jewish residents of the city. The mosque is central to the religious and cultural history of the local Muslim community, and petitioners are now discussing how best to proceed following the court judgment.

<sup>154</sup> See Adalah, "Israeli Supreme Court Rules to Turn Big Mosque in Beer el-Sabe into an 'Islamic Museum'," 24 June 2011: [http://www.adalah.org/eng/pressreleases/pr.php?file=24\\_06\\_11](http://www.adalah.org/eng/pressreleases/pr.php?file=24_06_11)

on the grounds of the mosque on 14-15 September 2011,<sup>155</sup> although alcohol is strictly forbidden in Islam. The use of the mosque for such purposes demonstrates disrespect and disregard for the holy sites of religious minorities in Israel.

*The lack of legal protection for Muslim holy sites in Israel*

In its reports to the Committee Israel notes (p. 82) that the text of the Protection of Holy Sites Law – 1967 does not distinguish between Jewish and non-Jewish holy sites. However, in practice the law is only applied to Jewish holy sites. As of 2009, around 135 sacred places were declared as holy sites, all of which are Jewish. The result of this discrimination is the neglect and desecration of Muslim holy sites in Israel: many mosques and holy sites have been converted into bars, night clubs, stores and restaurants.<sup>156</sup> This discrimination continues in spite of the fact that the Protection of Holy Sites Law aims to safeguard and preserve sacred places from desecration, from anything which could obstruct access to these places by followers of religious traditions, or could offend their religious sensitivities. The law requires the Minister of Religious Affairs to regulate holy sites in general. Article 4 of the law states that, “The Minister of Religious Affairs is responsible for the implementation of the law, and is authorized, after consultation with the religious leaders, or in accordance with their advice and the agreement of the Minister of Justice, to promulgate regulations in order to implement the law.”

On 16 March 2009, after five years of litigation, the Supreme Court of Israel rejected a petition demanding that Israel promulgate regulations for the protection of Muslim holy sites in Israel, in accordance with the Protection of Holy Sites Law – 1967.<sup>157</sup>

The court rejected the need for the promulgation of regulations to bind various government ministries in this regard, arguing that defining specific sites as Muslim holy sites was a “sensitive matter.” While the court acknowledged the miserable state of Muslim holy sites and the need to repair them, it further ruled that the state’s commitment to designate a budget of NIS 2 million (approximately US \$500,000) for the maintenance of Muslim holy sites was sufficient. The meager budget committed to by the state will not be sent directly to Islamic committees for them to invest in the protection of the holy sites, but to the Israel Land Administration (ILA) to undertake this task. However, over the past 60 years, the ILA has done nothing to prevent the desecration of Muslim holy sites and has in many instances played an active role in their desecration.

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<sup>155</sup> See invitation to 3<sup>rd</sup> Annual Wine and Beer Festival, “Salute 2011”: <http://www.gonegev.co.il/beer-sheva/gp.asp?gpid=1796>

<sup>156</sup> See also, The Arab Association of Human Rights, “Sanctity Denied: The Destruction and Abuse of Muslim and Christian Holy Places in Israel,” December 2004, reporting that some 250 non-Jewish places of worship were destroyed during or since the 1948 war or made inaccessible to Arab citizens of Israel. Available at: <http://www.arabhra.org/publications/reports/index.htm>

<sup>157</sup> Adalah submitted the petition in November 2004 in its own name and on behalf of Sheikh Abdullah Nimer Darwish, Sheikh Kamel Rayyan, MK Sheikh Ibrahim Sarsour, and former MK Abd al-Malek Dahamshe, as well as the Al-Aqsa Association for the Preservation of Muslim Holy Sites. H.C. 10532/04, *Sheikh Abdullah Nimr Darwish, et al. v. Minister of Religious Affairs, et al.* (petition rejected on 16 March 2009).

- **Restrictions on cultural contact with other members of the Arab nation**

Israeli state policy seeks to impose severe limitations on social, cultural and religious ties between Palestinians in the OPT and Palestinian citizens of Israel, and on contact with the wider Arab and Muslim nations. For example, Israel prohibits all citizens to travel to states designated as “enemy states,” all of which are Arab and/or Muslim states. This policy is arbitrary and discriminatory, in violation of the equal right of members of the Arab national minority in Israel to enjoy their own culture, as protected by Article 5 of the Convention.

In April 2010, the Supreme Court decided – for the first time in Israeli legal history – to permit an Arab citizen of Israel to travel to a state defined as an “enemy state” under Israeli law, despite the opposition of the Prime Minister and Interior Minister, both of whom refused to issue a permit.<sup>158</sup> The court decided to allow Arab author and journalist Alaa Hlehel to travel to Lebanon in order to receive an award for Arabic literature at the “Beirut 39” festival on the grounds that there was no security reason presented by the General Security Services (GSS) to prevent his travel. The court’s decision is a precedent, and the exception that proves the rule.

At a hearing held on a petition filed by Adalah on behalf of Mr. Hlehel on 12 April 2010, the AG argued that it was the Interior Minister’s policy that travel to Lebanon, and other countries defined as “enemy states” under Israeli law – all of which are Arab and/or Muslim states – is prohibited except in extreme humanitarian cases. The court commented that the state’s position does not clarify what constitutes an extreme humanitarian case, and does not provide a convincing explanation for why Mr. Hlehel was prevented from travelling to Beirut. The state admitted in its response to the petition that there was no security reason to prevent Mr. Hlehel from traveling.

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<sup>158</sup> H CJ 2390/10, *Hlehel v. The Minister of the Interior* (decision delivered 13 April 2010). See, Adalah, “In Landmark Ruling on Adalah Petition, Israeli Supreme Court Permits Arab Author Alaa Hlehel to Travel to Beirut to Receive Prestigious Literary Prize,” 15 April 2010: [http://www.adalah.org/eng/pressreleases/pr.php?file=13\\_04\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=13_04_10)