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عدالة المركز القانوني لحقوق الأقلية العربية في اسرائيل
עדאלה המרכז המשפטי לזכויות המיעוט הערבי בישראל

Adalah's Report
Recent Developments - The Rights of the Palestinian Minority in Israel

Submitted to the Members of the Country Report Task Force-Israel
UN Human Rights Committee
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Adalah is pleased to submit this brief report to assist the Members of the Country Report Task Force - Israel in developing its *List of Issues* in advance of its planned review of Israel as a State Party to the International Covenant on Civil and Political Rights (ICCPR) in March 2003. This report has been prepared in light of the UN Human Rights Committee's Concluding Observations (CCPR/C/79/Add. 93, 18 August 1998), issued after consideration of Israel's Initial Periodic Report (CCPR/C/81/Add. 93, 15-16 July 1998), and Israel's Second Periodic Report (CCPR/C/ISR/2001/2, 4 December 2001).

The focus of this submission is Israel's implementation of the Covenant vis-à-vis Palestinian citizens of Israel, a national minority of over 1 million people who comprise approximately 20% of the population of the state. Five main issue areas are discussed in this report: (1) the increasing legitimization of racism; (2) restrictions on political participation; (3) discriminatory law and policies concerning the family and children; (4) discrimination against Palestinian women citizens of Israel; and (5) the absence of equality/minority rights. This submission supplements Adalah's more comprehensive report entitled, "Institutionalized Discrimination Against Palestinian Citizens of Israel," (August/September 2001) and recently submitted to the UN HRC.

Israel submitted its Second Periodic Report to the UN HRC in November 2001. That report provides information for the period 1998 - September 2000. Since that time, as this report illustrates, there have been major new events and developments, which significantly impact the civil and political rights of Palestinian citizens of Israel. We wish to call the Task Force's attention to these matters, and request that the Task Force seek updated information and responses from Israel concerning these issues.

We look forward to cooperating with the Task Force and the UN HRC through its consideration of Israel's Second Periodic Report in March 2003. We remain available to provide additional information, as needed.

1) The Increasing Legitimization of Racism (ICCPR, Arts. 20, 26, 27)

Racism occurs at almost every level of Israeli society; it is not an isolated or new phenomenon. However, since the October 2000 protest demonstrations by Palestinian citizens of Israel throughout the country and their suppression, anti-Arab racism in Israeli society has worsened considerably. As the Intifada in the 1967 Occupied Palestinian Territories (OPTs) enters its third year, increasingly Palestinian citizens of Israel are the target of a de-legitimization

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campaign and are viewed as "an enemy from within." Ministers of the government, headed by Prime Minister Ariel Sharon, consistently use the security situation to justify extreme policies that further legitimize racism and intolerance, and that threaten and thus, weaken, the citizenship status of Palestinian citizens of Israel. Three examples of this trend are set forth below:

Transfer. The racist notion of "transfer" has increasingly become part of a legitimate discourse and debate in Israel. By transfer, it is meant the idea of voluntary or involuntary expulsion of Palestinian citizens of Israel and/or a land swap such that Arab localities in Israel and the people living in them would become part of an eventual Palestinian state in exchange for Jewish settlements in the Occupied Territories. Such plans were previously identified solely with extreme right-wing political parties. Recent polls, however, indicate that support for transfer among the Israeli Jewish public is on the rise. In March 2002, the Jaffee Center for Strategic Studies at Tel Aviv University published a public opinion poll of 1,264 Jewish citizens. The survey revealed that:

- 46% favor transferring Palestinians out of the territories (as compared with 38% in 1991).
- 31% favor transferring "Israeli Arabs" out of the country (as compared with 24% in 1991).
- 60% favor encouraging "Israeli Arabs" to leave the country.
- 61% think that "Israeli Arabs" pose a threat to the state's security.
- 24% think that "Israeli Arabs" are not loyal to the state.

(See Amnon Barzilai, "More Israeli Jews favor transferring of Palestinians, Israeli Arabs – polls finds, *Ha'aretz English Edition*, 12 March 2002).

Recently, Labor party political leaders have also set forth various plans involving transfer. The Minister of Transportation Ephraim Sneh proposed a political plan in 2002 by which Israel will receive 5% of the lands of the West Bank, and give up some Arab villages in the Triangle Area to the Palestinian Authority. According to Sneh, some Jewish settlers will have leave their houses, and some Arab citizens of Israel will have to change their citizenship. He stressed, however, that he only advocated voluntary transfer. (See Ori Nir, "We can't just be shooed away," *Ha'aretz English Edition*, 25 April 2002).

Former Prime Minister Ehud Barak, in an important interview with Israeli historian Benny Morris, agreed that in the absence of a peace settlement with the Palestinians, Israel's Arabs constitute an irredentist "time bomb," though he declined to use this phrase. If the conflict with the Palestinians continues, said Barak, "Israel's Arabs will serve as [the Palestinians'] spearpoint" in the struggle: "This may necessitate changes in the rules of the democratic game … in order to assure Israel's Jewish character." According to Morris, Barak raised the possibility that in a future deal, some areas with large Arab concentrations, such as the Little Triangle and Umm El-Fahem, could be transferred to the emergent Palestinian Arab state, along with their inhabitants: "But this could only be done by agreement – and I don't recommend that government spokesmen speak of it [openly]. But such an exchange makes demographic sense and is not inconceivable." (See Benny Morris, "Camp David and After: An Exchange (1. An Interview with Ehud Barak)," *The New York Review of Books*, 13 June 2002.

The Demography Council. In September 2002, Minister of Labor and Social Welfare Shlomo Benizri (Shas), reconvened the Demography Council, after five years of inactivity. The Council aims to find solutions to the "demographic problem," namely, the decrease in the Jewish population in Israel, in order to preserve the Jewish character of the state. The reconvening of the Council sends a clear message that the growth of the Palestinian citizen population is a threat to the state and to its people. In Adalah's view, the Council should not be supported by public funds, as its objectives are racist, in that they de-humanize the value of Palestinian life,

and undermine the principle of equality. (See also Gideon Levy, "Wombs in the Service of the State, *Ha'aretz English Edition*, 9 September 2002).

Revoking Citizenship. In September 2002, the Minister of Interior Eli Yishai (Shas), signed a decree revoking the citizenship of a Palestinian citizen of Israel. This unprecedented decision makes the individual stateless; he is currently incarcerated for breaching state security and he does not hold any other citizenship. Article 11(b) of the Citizenship Law (1952) grants authority to the Minister to revoke the citizenship of an Israeli citizen for "breach of allegiance to the State of Israel." The Minister of Interior also issued decisions to revoke the citizenship of another Palestinian citizen of Israel and to nullify the permanent residency status of a Palestinian individual from East Jerusalem. These individuals have submitted appeals to the Minister, which are currently pending.

We wish to call the Committee's attention to Israel's Initial Periodic Report (p. 35, para. 53), in which Israel states that "as a practical matter," revocation of citizenship for "breach of allegiance" has never been invoked. In fact, the former Minister of Interior and the Supreme Court refused the request by a third party to strip the citizenship of Yigal Amir, an Israeli Jewish citizen who assassinated Prime Minister Yitzak Rabin in 1995, on the grounds that such a decision would be an extreme and drastic measure. These new decisions contribute to the de-legitimization of the Palestinian community in Israel and encourage racism.

See also, Ali Haider, "Hatred, Rejection and Racism: Treatment of Arab Citizens by Israeli Politicians and the Israeli Establishment," in The Sikkuy Report 2001-2002, available at http:/www.sikkuy.org.il. Of notable mention, Haider highlights a pending bill proposed by MK Michael Kleiner (Herut), which encourages Palestinian citizens of Israel to emigrate to Arab countries by offering a basket of benefits in exchange for relinquishing citizenship; and (ii) racist statements consistently made by the Minister of National Infrastructure Ephraim Eitam (National Religious Party) that Arabs in Israel are "a cancer," "a strategic threat to the Jewish state," "a ticking bomb," and "an existential threat."

2) Restrictions on Political Participation

A. Arab Members of Knesset and Political Leaders (ICCPR, Arts. 4, 12, 19, 21, 25, 25, 26, 27)

Legislative Developments

We wish to call the Task Force's attention to a series of recently enacted laws, which impose new restrictions and limitations on Members of Knesset (MKs) and on the right of political participation in general. These new laws institute a range of mechanisms of control - on freedom of movement, on freedom of expression, and on access to and participation in the political system - which target and will most severely affect Palestinian citizens of Israel and their public representatives.

Order for the Extension of the Validity of Emergency Regulations (Foreign Travel) (1948) (Amendment 7), 2002. On 13 March 2002, the Knesset passed an amendment to these Emergency Regulations, which removes the exemption for Members of Knesset (MKs) to lawfully travel to "enemy states," as defined by Israeli law. "Enemy states" include only Arab countries. Pursuant to the new amendment, MKs may no longer rely on their diplomatic passports to travel to these countries without prior permission; MKs must now obtain a permit from the Minister of Interior or the Prime Minister. Clearly, this amendment targets Arab MKs.

New Amendments to the Elections Laws. On 15 May 2002, the Knesset passed three new amendments to the elections laws, which govern the registration of new political parties and the right to stand for election. The three laws, which were amended are:

(i) The Law of Political Parties (1992) (Amendment 12), 2002. Article 5 of this Law is titled "Limitations on Registering a Political Party." This law sets forth various [ideological] limitations on the registration rights of political parties, similar to Section 7 (A) of The Basic Law: The Knesset. The new amendment to Article 5 adds the following provision: that a political party that wishes to run for the Knesset elections will not be registered if its goals or actions, directly or indirectly, "support armed struggle of an enemy state or of a terror organization, against the State of Israel."

(ii) The Basic Law: The Knesset (1958) (Amendment 35), 2002. Section 7(A) of the Basic Law: The Knesset (added in 1985) is titled, "Prevention of participation in the elections." The law sets forth various ideological limitations on the ability of political parties to run in Knesset elections. In 2002, the Knesset enacted several amendments to Section 7(A). The most important changes in the law are that: (i) the provisions now apply not only to political party lists but also to individual candidates (subject to judicial review by the Supreme Court); and (ii) "support of armed struggle, of an enemy state or of a terrorist organization" was added to the list of prohibitions on participation.

(iii) The Law of Election (1969) (Amendment 46), 2002. The new amendment to Section 57 of the Law of Elections states that a candidate who wishes to run for election to the Knesset must declare as follows: "I commit myself to uphold the loyalty for the State of Israel and to avoid acting in contradiction with Section 7(A) of the Basic Law: The Knesset." The main purpose of this amendment is to set complementary instructions for the implementation of Section 7(A) of the Basic Law: The Knesset.

Penal Law: Article 144D2 - Incitement to Racism, Violence and Terror (Amendment 66), 2002. On 15 May 2002, the Knesset passed an amendment to Article 144 of the Penal Law. The new law prohibits the publicizing of "a call for an act of violence or terrorism" or supporting such an act. An individual found guilty of this offense can be sentenced to up to five years imprisonment. The new law also criminalizes the possession of a publication "which is an incitement to violence or terrorism." The punishment for this offense is up to one year in prison.

The Law of Immunity of Members of Knesset: Their Rights and Their Duties (1951) (Amendment 29), 2002. On 22 July 2002, the Knesset passed an amendment to this law in order to "remove any doubt" as to expressions of opinion or actions taken by MKs, which are considered to be official acts as parts of his/her duties. The new amendment adds to the existing law 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/her parliamentary immunity, and thus may be criminally prosecuted.

In Adalah's view, these new laws:

- Set forth additional, ideological pre-conditions for the qualification of individual candidates and political parties to enter the Knesset, and thus add limitations on the right of freedom of expression. The problem with the new provision of "support of armed struggle, of an enemy state or of a terrorist organization, against the State of Israel," which was added to all of these laws, is its vagueness and overbreath. For example, if an MK criticizes an action of the state and justifies the action of another state in defending itself, this political speech may disqualify him/her from participating in the Knesset. This

could also be the case if an MK does not call for the use of "armed struggle" but if he/she states that the struggle against the occupation is legitimate. Further, in Israel, the government decides which organizations are terrorist organizations; the designations are not made by Knesset legislation. Thus, in effect, with this authority, the government can determine who can or cannot enter the Knesset. With these new laws, Arab political parties and/or candidates face the threat of disqualification in the upcoming elections in 2003.

- Infringe the immunity of MKs and the fulfillment of their duties as public representatives. The new laws limit their freedom of movement and remove the substantive immunity for political speech enjoyed by MKs, whether in the Knesset or at public gatherings, and places this speech outside of the scope of an MKs role. With these new laws, the voicing of political dissent may be severely restricted, and MKs be increasingly subjected to criminal prosecution.

- Ease the ability of the state to criminally prosecute all individuals for speech. The new test for whether or not speech constitutes incitement is that of "substantial probability." This test replaces the stricter test, which has been applied to date by the Supreme Court in freedom of speech cases.

Political Attacks Against Arab MKs and Political Leaders

The enactment of these new laws in 2002 follows a series of political attacks by the state against Arab MKs and political leaders. Increasingly, the state has used the Emergency Regulations in order to restrict the political participation rights of Palestinian citizens of Israel. In this regard, we wish to call the Task Force's attention to UN HRC Concluding Observation # 11, which expresses deep concern at the continued state of emergency prevailing in Israel, and its recommendation to limit as far as possible "the associated derogation of rights."

Containing Arab Political Speech: The Policy of the Attorney General. Over the last two years, Attorney General Elyakim Rubenstein has ordered the police to open investigations against almost every Arab MK in Israel for incitement to violence. The subject of these investigations concern political statements made by Arab MKs in support of Palestinian resistance to the occupation and in protest over land confiscation and home demolition in Israel. At the same time, the Attorney General has ignored the racist speech of Israeli Jewish public officials. For example, Israeli Jewish MKs such as Avigdor Lieberman (Yisrael Beiteinu) and Michael Kleiner (Herut) were not investigated for their calls to put certain Arab MKs "before a firing squad," nor was an investigation opened against Rabbi Ovadia Yosef, the spiritual leader of Shas (the third largest party in Knesset), who publicly described Arabs as "rattlesnakes," who should be "targeted by splendid missiles" and destroyed.

One of these investigations into the political speech of Arab MKs has resulted in a criminal prosecution. On 7 November 2001, at the request of the Attorney General, the Knesset voted to lift MK Dr. Azmi Bishara's parliamentary immunity to permit his indictment under two emergency laws: one under the Prevention of Terrorism Ordinance (1948) for political speeches he made in Israel and in Syria and the other under the Emergency Regulations (Foreign Travel) (1948) for assisting Palestinian citizens of Israel to visit their refugee relatives in Syria. The lifting of an MK's immunity as a result of his political speech is unprecedented in Israel. Both of these cases are currently pending before the Magistrate Court. The government initiated and the Knesset enacted several of the amendments to laws noted above in direct response to the issues raised by MK Bishara's cases. All documentation concerning these cases can be found at http://www.adalah.org/legaladvocacy.shtml#featured.

Restrictions on Freedom of Movement (ICCPR, Art. 12). In its Concluding Observation #22, the UN HRC expressed concern about restrictions on freedom of movement, as to Palestinians in the OPTs. We wish to call the Task Force's attention to restrictions on freedom of movement of Palestinian citizens of Israel.

Recently, Minister of Interior Eli Yishai has invoked his power under the Emergency Regulations (Foreign Travel) (1948) to ban Arab political leaders from leaving the country on the grounds that their travel would harm the security of the state. The orders are based on undisclosed "secret evidence" and there is no right to a hearing prior to the issuance of the order. The Knesset has also recently used its power to restrict the freedom of movement of an Arab MK. Examples include:

(i) In February 2002, the Minister of Interior issued an order prohibiting Sheikh Ra'ed Salah, the head of the Islamic Movement in Israel, from leaving the country for six months. The Supreme Court dismissed a petition in July 2002, which challenged the order on the grounds that it violates due process, and Sheikh Ra'ed Salah's constitutional rights to freedom of movement and freedom of religion. (H.C. 4706/02, *Sheikh Ra'ed Salah, et. al. v. Minister of Interior*) In August 2002, the six-month total travel ban was renewed for a second time. All documentation concerning the case can be found at http://www.adalah.org/legaladvocacy.shtml#featured.

(ii) In March 2002, the Director of the Ministry of Interior's Population Bureau issued an order prohibiting Mohammed Kannaneh, the General Secretary of the Abna al-Balad Movement, from traveling to Egypt for one year for "security reasons." After numerous letters were sent challenging the restriction order, in August 2002 six-months after it was issued, the order was cancelled.

(iii) In June 2002, the Knesset voted to restrict the movement of MK Dr. Ahmad Tibi, head of the Ta'al - Arab Movement for Renewal party, for the remainder of his term as an MK (November 2003). MK Michael Eitan proposed these restrictions, claiming that MK Tibi promotes the interests of the Palestinian Authority, which conflicts with his work as an Israeli MK; made statements against the Israeli army's April 2002 invasion of the Jenin refugee camp and attempted to enter the area although it was a closed military zone. Specifically, MK Tibi is prohibited from entering the West Bank and the Gaza Strip. A petition challenging the Knesset's decision is currently pending before the Supreme Court. (H.C. 7341/02, *MK Ahmad Tibi v. The Chairperson of the Knesset, Avraham Burg and the Knesset*)

B. Political Protestors (ICCPR, Arts. 4, 6, 7, 9, 10, 14, 19, 21, 26)

In its Concluding Observation #17, the UN HRC expressed concern and requested information about Palestinians in the OPTs killed by the Israeli security forces; the operational rules and use of firearms and rubber-coated steel bullets against unarmed civilians; and the number of complaints filed relating to these actions as well as the number of defence and security force personnel that have been punished or disciplined as a result. We wish to call the Task Force's attention to these matters as they relate to Palestinian citizens of Israel.

October 2000 Protest Demonstrations and Excessive Lethal Force Used Against Palestinian Citizens of Israel

In late September 2000, then-MK Ariel Sharon, surrounded by scores of soldiers, visited al-Haram al-Sharif compound, site of Al-Aqsa Mosque in East Jerusalem. This provocative visit sparked massive demonstrations, and over the course of the next two days, Israeli security

forces killed and injured tens of Palestinian worshippers and protestors throughout the OPTs. The uprising that began with Sharon's visit has become known as Al-Aqsa Intifada.

On 1 October 2000, Palestinian citizens of Israel called for a general strike to express solidarity with the Palestinians in OPTs. Palestinian citizens of Israel demonstrated in massive numbers in Arab towns and villages throughout the country. During these street demonstrations in early October 2000, the police and special anti-terror units killed 13 unarmed Palestinian citizens and injured hundreds more using live ammunition, rubber-coated steel bullets and tear gas. Israeli Jewish citizens also engaged in riots against Palestinian citizens targeting people, property and mosques in various towns in Israel. Over 1,000 people were arrested in connection with these events (about 660 Palestinian citizens and 330 Jewish Israelis), and hundreds, including scores of minors, were indicted and detained without bond until the end of trial. The October events in Israel marked the first time in decades that such brutal violence was used by Israeli police and security forces against Palestinian citizens of the state.

Neither the police nor Mahash (the Ministry of Justice Police Investigation Unit) opened criminal investigations into the circumstances of the killings of the Palestinian citizens. No criminal indictments were filed. In some instances, the police deliberately prevented autopsies from being performed. The Israeli government ultimately established a Commission of Inquiry, chaired by Supreme Court Justice Theodor Or, to investigate these events. The Commission began its hearings in February 2001; heard testimonies from over 400 witnesses; and issued letters of warning in February 2002 to 14 individuals (including former Prime Minister Ehud Barak, former Minister of Internal Security Shlomo Ben Ami, police commanders, and three Arab public representatives), but has not yet completed its work.

Key points revealed from the testimonies heard by the Commission include: the use of snipers against unarmed civilians; the use of rubber-coated steel bullets from a distance of less than 40 meters (the minimum distance permitted by the Open-Fire Regulations); the use of live ammunition against unarmed demonstrators, although the lives of the security forces were not in danger; and the failure of the security forces to use alternative means of crowd dispersal such as warning shots in the air, verbal warnings, or tear gas.

A recent study conducted by eight medical professionals in Israel documented 152 cases of Palestinian citizens of Israel with 201 injuries by rubber-coated steel bullets. Of these 201 injuries, 61 were to the head, neck, and face. The study further reported that the injuries incurred by 42 of the individuals suggested that the bullets were fired from a close range. (See Ahmad Mahajna, et. al., "Blunt and penetrating injuries caused by rubber bullets during the Israeli-Arab conflict in October, 2000: a retrospective study," The Lancet, Volume 359, Issue 9320, p. 1795 available at http: //www.thelancet.com.)

To Adalah's knowledge, no commanders or other security force personnel have been punished or disciplined for the death or injury of Palestinian citizens in October 2000.

(See also *Adalah's Review*, Volume 3 – Law and Violence (Summer 2002); Amnesty International, Israel and the Occupied Territories, "Excessive Use of Lethal Force," October 2000 and "Mass Arrests and Police Brutality," November 2000; and Physicians for Human Rights-Israel, "Evaluation of the Use of Force in Israel, Gaza and the West Bank: Medical and Forensic Investigation," November 2000).

Other Incidents of Police Violence Against Demonstrators

The October 2000 events were not the first in which Israeli police forces have used excessive force against Palestinian citizens of the state. In 1998, Palestinian citizens demonstrated in large

numbers in Umm al-Sahali, an unrecognized Arab village in Israel, following the court-ordered and state-executed demolition of Palestinian homes, and in Umm al-Fahem after the army attempted to expropriate Arab-owned land for use as a military training area. Both protests resulted in violent clashes with the police. As a result of the events in Umm al-Fahem, which went on for three days, hundreds of Palestinian citizens including students, were injured by live ammunition, rubber-coated steel bullets and tear gas, after the police stormed the high school. In both cases, no commanders or other police officers were held responsible. In the case of Umm al-Fahem, an internal police review was conducted, which cleared the police of all responsibility and recommended that all complaints filed against individual officers should be dropped, due to the excessive difficulty of identifying particular individuals. The Attorney General later endorsed the results of this internal review, and rejected requests to establish an official commission of inquiry.

In Adalah's experience representing Palestinian citizens of Israel who are victims of police violence, it is very rare that disciplinary actions or criminal prosecutions are initiated against officers. Adalah requested information from Mahash in 2002 regarding the number of complaints filed by Palestinian citizens and Jewish Israelis; the number of investigations opened; and the number of disciplinary actions taken and indictments filed. In response to our request, Mahash stated that it does not have statistics or other information disaggregated according to race or religion.

C. Non-Governmental Organizations (NGOs) (ICCPR, Art. 22)

Freedom of association has long been recognized as a fundamental civil right in Israeli law. Any restriction on this right must only be by express authorization of the Knesset, as well as for a legitimate purpose and only to an extent no greater than necessary to achieve such a purpose.

The Law of Associations (1980) regulates the formation and operation of non-governmental organizations (NGOs). We wish to call the Task Force's attention to two recently proposed bills, that if passed, would have a dramatic impact on NGOs, and thus on freedom of association rights in Israel.

Proposed Bill: Ban on Foreign Funding to NGOs, 2002. On 3 June 2002, a new bill was submitted to the Knesset, which would, if enacted, ban NGOs from receiving donations from any foreign country or organization. Article 2 of the new bill provides that: "A person cannot request or receive any donation from any foreign country without having advance written permission from the Registrar …" Article 4 states that if the Registrar approves a request for foreign funds, he is empowered to follow and supervise the work of the NGO. The new bill also grants the Minister of Interior with the authority to exempt specific NGOs from these restrictions. Articles 7 and 8 of the new bill provide for criminal penalties to be imposed on violators (up to three years in prison) as well as the seizure of the donation.

Proposed Amendment to the Law of Associations (1980): Restrictions on Registration, the Salaries of General Directors, and Donations, 2002. On 7 July 2002, several MKs submitted this bill to the Knesset. The newly proposed restrictions on the registration of NGOs are the most problematic aspects of this bill. In addition to the basic application process to register an NGO, under the new bill, the Registrar may request any other document(s) that he deems necessary for the registration. The new bill also provides that the Registrar is entitled to refuse to register the NGO if there is "reasonable doubt" to conclude that the NGO will act as a cover for unlawful activities; this change lowers the standard of proof required to prohibit the establishment of an association.

There are hundreds of NGOs registered in Israel, scores of which receive substantial funds from international donor agencies and foreign governments. The current Law requires NGOs to file annual audited financial reports to the Registrar detailing these donations. In Adalah's view, the proposed ban on foreign funding bill imposes unjustified governmental interference in the independent funding and functioning of NGOs, as well as providing sweeping, arbitrary discretion to the Minister of Interior. Concerning the registration process, the current Law already contains sufficient enforcement mechanisms to prevent NGOs from conducting illegal activities. This proposed expansion of the Registrar's discretion may result in arbitrary, speculative, and disproportionate decision-making, which will constitute an infringement on the right of freedom of association.

3. Discriminatory Laws and Policies Concerning Children and the Family

Family Unification (ICCPR, Arts. 17, 23, 26)

In its Concluding Observation #26, the UN HRC expressed its concern that Israel has placed obstacles on family reunion and that these measures "are applied even more rigorously in the case of Arab citizens, particularly those who marry persons resident in the occupied territories." In this regard, we wish to call the Task Force's attention to a new policy that places even more severe measures on family unification.

New Interim Policy: Prohibiting Family Unification of Israeli Citizens Who Marry Non-Citizen Palestinian Spouses. On 12 May 2002, the Israeli Cabinet unanimously passed a new interim policy to handle applications for family unification "in light of the security situation and because of the implications of the processes of immigration and settlement in Israel of foreigners of Palestinian descent, including through family reunifications." The interim policy establishes a two-tier discriminatory system of family unification based on the nationality of the applicant, stating that "no applications to obtain the status of resident or other status will be accepted from residents of the Palestinian Authority; an application that has been submitted will not be approved, and the foreign spouse will be required to stay outside of Israel until another decision is made." It further states that applications from others will be reviewed in light of the applicant's national origin.

This policy clearly violates the fundamental right to marry and found a family. It is also most discriminatory in its effect on Palestinian citizens of Israel, as in practice, it is this group who primarily marry non-citizen Palestinians. Several petitions are currently pending before the Supreme Court which challenge this policy. (See e.g., H.C. 4608/02, *Abu Assad, et. al. v. The Prime Minister of Israel, et. al.* An English translation of the petition filed by Adalah on behalf of 14 families is available at: http://www.adalah.org/legal_documents/4608petition-eng.doc). The Supreme Court has issued numerous injunctions, requested by the petitioners, which prohibit the state from deporting the non-citizen Palestinian spouses of Israeli citizens, until the Court delivers a final decision.

Child Allowances (ICCPR, Arts. 23, 24, 26)

In its Concluding Observation #12, the UN HRC expressed its concern that "most Arab Israelis, because they do not join the army, do not enjoy the financial benefits available to Israelis who have served in the army, including scholarships and loans." In this regard, we wish to call the Task Force's attention to a new law that makes the enjoyment of equal civil rights conditioned on military service.

Amendment to Article 68 (a) of the National Insurance Law (1995): Cutting Child Allowances to Those Children Who Parents Did Not Serve in the Israeli Army. In June 2002, as part of an emergency economic plan, the Knesset passed an amendment, 74-28, to the National Insurance Law cutting all child allowances by the National Insurance Institute by 4%. In addition, for families in which neither parent served in the army or in national service, the amendment mandated an additional 20% cut. The amendment is due to take effect in January 2003. Seven petitions were filed to the Supreme Court challenging the legality of this new amendment. The Supreme Court refused to issue an injunction prohibiting the implementation of the law. (See H.C. 4822/02, *The National Committee of Arab Mayors and Adalah v. Avraham Burg, Chair of the Knesset, et. al.* (case pending)).

Home Demolitions (ICCPR, Arts. 12, 17, 24, 26)

In its Concluding Observation #24, the UN HRC stated that it "deplores the practice of home demolition, in part or in whole, of 'illegally' constructed Arab homes."

The most severe case of home demolition in Israel is that of the forceful destruction of Palestinian Bedouin citizens' homes in the unrecognized villages in the Naqab (Negev). Here, the authorities use a combination of house demolitions, land confiscation, denial of basic services, and restrictions on infrastructure development to dislodge residents from their villages. This practice is also part of the state's overall policy of land expropriation, which adversely affects the land and housing rights of all Palestinian citizens in Israel.

While Israel's Second Periodic Report p. 144, para. 275 notes that, "Hardly any of the illegal Bedouin houses in the Negev have been demolished within the last two years," recent data collected by Adalah shows the opposite to be true. We wish to call the Task Force's attention to recent developments in this regard.

Over the last 18 months, the Green Patrol Unit accompanied by hundreds of police, have surrounded villages, closed roads, attacked residents, and demolished close to 100 homes in the Naqab, leaving scores of families and children without shelter. Examples include:

- May 2001 - Two homes in Gatamat were demolished.
- November 2001 - Six homes in Al-Mezereh were demolished.
- May 2002 - Thirty homes (tents) in Al-Araqib were demolished. Later in the month, for a second time, 20 homes were destroyed in Al-Araqib.
- June 2002 - Fourteen homes in Al-Mokemen and two homes in Beer-Hadaj were demolished.
- July 2002 - Four homes in Wadi-Alnaam were demolished. Also, for the third time, 10-15 houses in Al-Araqib were destroyed.

Education (ICCPR, Arts. 24, 26, 27)

Israel's Second Periodic Report, pp. 98-104 discusses a number of issues concerning education. Systematic, institutionalized discrimination impedes the education of Palestinian students at Israel's state-run schools. The two primary sources of inequality are the lack of Arab control over the curriculum, and the unequal distribution of state resources to Arab students. Significant gaps exist between Arab and Jewish schools at every level from early childhood education through higher education. Arab schools are characterized by poor facilities and insufficient infrastructure, and few frameworks exist for pre-school aged children as well as Arab students with special needs. The situation in the Naqab, particularly in the unrecognized

villages, is the most severe. The Ministry of Education (MOE) has established various committees throughout the years to examine these gaps, but the resulting recommendations have been largely ignored or poorly implemented. We wish to call the Task Force's attention to a number of important issues.

No Autonomous Control: The State Education Law (1953), as amended in February 2000, sets educational objectives for state schools that emphasize only Jewish history and culture and ignore Palestinian history and culture. The MOE retains centralized control over the form and substance of the curriculum for Arab schools and secular Jewish schools, whereas state religious schools established only for religious Jewish students maintain autonomous control over their curricula. Palestinian citizens are excluded from significant decision-making positions in the Ministry, and have no autonomy to set curricula to meet their needs as a distinct group. Students receive little instruction in Palestinian and Arab history, geography, literature, culture, and traditions in their educational institutions and spend more time learning the Old Testament and other Jewish texts than they do on studying the Koran, Islamic texts, and the New Testament.

Lack of Implementation of Five-Year Plan for the Arab Education System: Israel's Second Periodic Report p. 102-104 discusses this Plan, according to which the MOE will allocate NIS 50 million per year for five years for Arab schools. Despite this positive step, reports of human rights organizations and the Follow-up Committee for Arab Education show that this plan will hardly close the gaps between the Arab and Jewish students; the budget, the programs and the implementation of this plan, cannot answer the needs and problems of Arab students. Further, it should be emphasized that both in the years 2000 and 2001, the MOE allocated less than the committed NIS 50 million per year: Allocations amounted to only NIS 41 million in 2000 and NIS 38 million in 2001. (See Bakr Awawdy, "The Five-Year Plan for Advancing Arab Education in Israel," in The Sikkuy Report 2001-2002, p. 39 available at http://www.sikkuy.org.il.)

Unequal Access to Enrichment Programs: The MOE continues to discriminate against Arab students in many of the plans it initiates. In September 2002, the Follow-up Committee for Arab Education and the Association for Civil Rights in Israel (ACRI) filed a petition to the Supreme Court against the MOE challenging the unequal budget allocations to Arab students in the "Tipuah Policy." This policy, in place since the 1960s, granted additional funds and programs for Jewish-only elementary and junior high schools with socio-economically weak students. In 1994, the Ministry changed the entitlement formula to also include Arab students, however, it set different criteria for Arab and Jewish schools that resulted in unequal, arbitrary budget allocations. The petitioners relied on an academic study, which showed that if objective criteria had been set and used by the Ministry, funds allocated to Arab schools would be 3- 4.5 times higher than they are today, and funds to Jewish schools would decrease by 50%-75%. The case is pending before the Court. (See H.C. 7677/02, *The Follow-up Committee for Arab Education and ACRI v. The Ministry of Education*).

See also: "NGO Comments on the Initial Israeli Report on Implementing the UN Convention on the Rights of the Child," Defense of Children International – Israel Section, April 2002; and Human Rights Watch, Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools (2001).

4. Discrimination Against Palestinian Women Citizens of Israel (ICCPR, Arts. 3, 26, 27)

In its Concluding Observation #15, the UN HRC expressed its concern about "the most disadvantaged group of women, namely those belonging to the Arab minority."

While Israel admits that Palestinian women citizens of the state are still among the most disadvantaged (Israel's Second Periodic Report p. 28), the government has presented no clear plan of action to accelerate progress towards equality. In fact, in its report, Israel did not even present any disaggregated statistics with which to compare the situation of Palestinian women citizens with Palestinian men or Jewish men or women. We wish to call the Task Force's attention to a most pressing issue of concern to Palestinian women in Israel - that of employment discrimination.

Unemployment. The State Comptroller's Annual Report for the Year 2001, released on 29 April 2002, offers the following stark statistics (p. 6): 72% of Palestinian women citizens of Israel, aged 25-34, do not work outside of the home, as compared with 38% of the general population.

More startling figures were reported by the Ministry of the Labor and Social Affairs: In Israel, only 16% of Palestinian women citizens between the ages 25-54 are employed, as compared with 75% of Jewish women. The situation in the Naqab is even worse, where only 7% of Palestinian women citizens are employed. Of the unemployed Palestinian women, 11% hold an academic degree (B.A. or B.S.) (See Ori Nir, "The Arab Sector: The Unemployment May Block Arab Women's Integration into the Labor Force," *Ha'aretz,* 1 December 2001; and Ruth Sinai, "Jewish Work: 55% of the women in the state do not work," *Ha'aretz*, 24 September 2002).

Representation on the Board of Directors of Government-Owned Companies. Amendment 6 to the Governmental Companies Law (1975), passed in 1993, requires equal representation for all women in Israel on the boards of directors of government-owned companies. Amendment 11 to this same law, passed in June 2000, states that: "In the board of directors of governmental companies, adequate representation will be given to the Arab population." However, despite these new laws and Supreme Court litigation by the Israel Women's Network in 1994 (H.C. 453/94, *Israel Women's Network v. The Government of Israel*, PD 48 (5), 501), less than 1% of sitting board members are Palestinian women citizens of Israel. While Jewish women's representation increased from 7% to almost 37% between 1994-2002, there was no increase in the representation of Palestinian women.

Palestinian citizens of Israel on the Board of Directors of Governmental Corporations as of March 2002:

Total No. of Directors	Total No. of Pal. Citizen Directors (Women and Men)	Pal. Citizen Women Directors
622 (100%)	31 (5%)	6 (<1%)

Source: State response, dated 26 March 2002, to H.C. 10026/01, *Adalah v. The Prime Minister, et. al.* (case pending).

Palestinian and Jewish women citizens of Israel on the Board of Directors of Governmental Corporations:

Total No. of Directors	Total No. of Women Directors	Jewish Women Directors	Pal. Citizen Women Directors
668 (100%)	247 (37%)	242 (>36%)	5 (<1%)

Source: Ali Hedar, "The Arab Citizens in the Civil Service," Sikkuy Report, Equality and the Integration of the Arab Citizens of Israel 2000-2001, June 2001 (citing to an April 2001 report of the Governmental Companies Authority).

In December 2001, Adalah filed a petition to the Supreme Court of Israel against Prime Minister Ariel Sharon and several other government ministers seeking a Court order requiring the

respondents to fully implement the affirmative action policies set forth in amendments 6 and 11 to the Governmental Companies Law. Adalah argued that the Court should recognize Palestinian women citizens of Israel as a distinct protected sub-group, realizing that Palestinian women are subject to compound discrimination on the basis of race and sex. In its response, the State opposed this suspect sub-group classification, based on several proposed bills, which were rejected by the Knesset. (See H.C. 10026/01, *Adalah v. The Prime Minister, et. al.* (case pending)).

Employment in the Civil Service. According to Article 15A of the Civil Service Law (Appointments) (1959), as amended in December 2000, it is obligatory to apply affirmative action in the hiring of Palestinian citizens of Israel and for women for civil service jobs. Despite this law, Palestinian citizens in general and Palestinian women citizens in particular, are sorely under-represented in civil service positions.

Palestinian citizens of Israel (women and men) employed in civil service jobs as of May 2001:

Total No. of Employees In the Civil Service	Pal. Citizens of Israel Employees
55,802 (100%)	3,128 (5.6%)

Source: Ali Hedar, "The Arab Citizens in the Civil Service," p. 19.

Palestinian and Jewish Women Citizens of Israel employed in civil services jobs as of May 2001:

Total No. of Employees in the Civil Service	Total No. of Pal. and Jewish Women in the Civil Service	Total No. of Pal. Women Citizens in Civil Service
55,802 (100%)	34,786 (62%)	1,150 (2%)

Source: Ali Hedar, "The Arab Citizens in the Civil Service," p. 21.

Minimum Wage. A survey conducted by the Arab-Jewish Institute of the New General Histadrut in August 2001 indicates that about 75% of Palestinian women citizens of Israel earn less that the minimum wage. The survey also shows, based on interviews with 650 Palestinian women citizens, that Palestinian society in Israel does encourage women to work outside of the home but that one of the main reasons for unemployment is the lack of work places in Arab localities in Israel.

5. The Absence of Equality/Minority Rights (ICCPR, Arts. 26, 27)

Recent Supreme Court Developments

Israel lacks a formal written constitution or a bill of rights. Over the years, the Knesset enacted a series of Basic Laws to delineate the separation of powers. In 1992, the Knesset passed two important Basic Laws - The Basic Law: Human Dignity and Liberty and The Basic Law: Freedom of Occupation - which, for the first time, contain "constitution-like" protections for some civil liberties. However, these Basic Laws, considered a mini-bill of rights by Israeli legal scholars, do not explicitly protect the right to equality. Israel still has no law that "constitutionally" guarantees the right of equality for all. Although several ordinary statutes protect the equal rights of women and people with disabilities, for example, no Basic Law or general statute guarantees the right to equality for the Palestinian minority.

The Supreme Court has very recently delivered some forward-looking decisions in cases involving the rights of Palestinians in Israel. In March 2000, the Supreme Court held in the *Qa'dan* case that the State is prohibited from allocating "state land" based on national belonging

or using "national institutions" such as the Jewish Agency to discriminate on its behalf. (See H.C. 6698/95, *Qa'dan v. Israel Lands Administration, et. al,* P.D. 54(1) 258) This case involved the right of a Palestinian family - citizens of Israel - to live in the Jewish community of Katzir. Note however, that despite the positive Court ruling, Katzir continues to reject the Qa'dan's application to purchase a home in the community. Also note that this decision does not relate to the main land issues for Palestinian citizens of Israel such as continued land confiscation, the uprooted villages, the unrecognized villages, the poor conditions of Arab neighborhoods in the mixed-cities, and the overcrowding in all Arab localities due to the state's refusal to allocate additional land to the municipalities.

In April 2000, the Supreme Court held that funds for religious cemeteries must be distributed equally to Jewish and Arab religious communities, according to the percentage-of-the-population criteria. (See H.C. 1113/99, *Adalah v. Minister of Religious Affairs, et. al*., Takdin Elyon 2000(2), 413). The Court in this case ruled that national belonging is irrelevant to the interest implicated in the policy at hand – the interest in a dignified burial – and thus the discrimination constitutes a violation of the principle of equality. Again, despite this precedent-setting judgment, the government has not fully implemented this decision.

In July 2001, the Supreme Court issued a decision endorsing the application of fair representation standards on the Israel Lands Administration (ILA) Council. As a result of the petition, the Council agreed to reinstate a previous Arab appointment, and the Court in its ruling, asked the Council to consider appointing an additional Arab representative. (See H.C. 6924/98, *The Association for Civil Rights in Israel v. The Government of Israel*, decision delivered July 2001). Note however, there are structural problems with the composition of the ILA that place a natural ceiling on the change promised by the judgment. For example, 49% of the 13 ILA posts (6 seats) are still appointed by the Jewish National Fund. Most importantly, however, the Supreme Court held, for the first time, that the state has a positive obligation – albeit not a statutorily recognized one – to guarantee fair representation of Palestinian citizens in public bodies, especially those vested with decision-making powers.

Despite these important new rulings, it is necessary to emphasize that an extended bench of the Supreme Court has not recognized the principle of equality as a "constitutional right" in any written decision to date.

The Government's NIS 4 Billion Plan

Israel's Second Periodic Report at p. 119-132 presents in full the government's October 2000 decision - "Multi-Year Plan for the Development of the Arab-Sector Communities." However, it fails to mention the context of the plan or to provide any information regarding implementation.

Soon after the terrible events of October 2000, the government led by then-Prime Minister Ehud Barak, decided to initiate the Multi-Year Plan to provide NIS 4 billion to the Arab community over four years. By setting forth the Plan, the government attempted to calm the anger and frustration within the Palestinian community in Israel, as the elections were imminently forthcoming, and the Labor Party sought "Arab votes." While the Arab political leadership did not view the Plan as a solution to the historical discrimination against Palestinian citizens of the state, they agreed to welcome the Plan, hoping that it would be the beginning of such a process.

Today, human rights organizations in Israel and the Arab political leadership criticize the Plan and even stage demonstrations against it. Researchers have found that the Plan will not close socio-economic gaps and disparities between Palestinian and Jewish citizens in Israel; is inefficient; and is not fully implemented. In fact, studies have shown that governmental budget allocations to Palestinian communities in Israel have decreased from previous years. (See

Shalom Dichter and Molly Malekar, "The 'Four Billion Shekel Plan' - A Road to Continued and Intensified Discrimination," in The Sikkuy Report 2001-2002, available at http:/www.sikkuy.org.il.)

Another problem is that the government started using the Plan to justify the exclusion of Arab localities from other programs. Two examples are illustrative.

(i) The government excluded Arab localities from the Ofeq Program, which aims to improve areas where residents suffer from high unemployment rates and other low socio-economic living conditions. Of the 11 localities chosen for this NIS 1.44 billion program, only one is an Arab town, Tel el-Sebe (Tel Sheva). Tel el-Sebe is a government-planned town located in the Naqab, with a population of 10,000. Arab localities, however, top the list of high unemployment areas that also have the lowest socio-economic status. According to June 2002 figures released by the Labor Office of the Ministry of Labor and Social Welfare, of the 25 towns with the highest unemployment rates in the country, all are Arab. Adalah and the Tel Aviv University Law Clinic filed a petition to the Supreme Court in July 2002 challenging the discriminatory exclusion of Arab localities from the program. The state's response to the petition relied on the Multi-Year Plan; according to the state, Arab localities have this plan that provides similar programs, if not more. (See H.C. 6488/02, *The National Committee of Arab Mayors, et. al. v. The Director's Committee for Fighting Unemployment in Settlements with High Unemployment Rates, et. al.* (case pending)).

(ii) The purpose of the Urban Renewal Program (URP) is to reduce societal inequality in the country, yet almost all the poorest Arab municipalities are excluded. Since the establishment of the URP, 56 Jewish localities and 99 Jewish neighborhoods have benefited from the program, as compared with four Arab villages and 14 Arab neighborhoods. Petitioners challenged the discriminatory implementation of this government program before the Supreme Court, arguing that there is a lack of objective, socio-economic criteria to govern the administration of the program. In December 2001, the Supreme Court ruled that the Multi-Year Plan, relied on by the state to justify exclusion, cannot stand as an alternative to the URP for two reasons: First, the government presented no evidence of actual, concrete budget allocations in accordance with the Multi-Year Plan, and second, the Court was not convinced that the Multi-Year Plan offered a parallel program rendering the URP allocations unnecessary. (See the Court's decision in H.C. 727/00, *The National Committee for Arab Mayors, et. al. v. Minister of Housing and Building, et. al.*, p. 17 and para. 19(c)).

Use of the Arabic Language

In its Concluding Observation #12, the UN HRC expressed its "concern that the Arabic language, though official, has not been accorded equal status in practice…" We wish to call the Task Force's attention to a recent Supreme Court decision in this regard.

Arabic is an official language in Israel, together with the Hebrew, according to Article 82 of the Palestine Order-in-Council (1922). This law, which was originally codified under the British Mandate, was later adopted by the Knesset and became part of the Israeli law. Though despite this law, the Arabic language was not treated as an official language by the State of Israel like the Hebrew. Even the Supreme Court was reluctant to recognize the Arabic as an official language, and in cases where this question was raised the Court preferred to deal with the right to use the Arabic language as part of the right for freedom of expression (See H.C. 105/98, *Raam Contracting Engineers, Ltd. v. Natserat Illit Municipality, et. al.*, P.D. 47 (5) 189).

In June 1999, Adalah and The Association for Civil Rights in Israel filed a petition to the Supreme Court against the mixed Arab-Jewish cities of Tel Aviv-Jaffa, Ramle, Lod, Akka, and Natserat Illit, demanding that these municipalities add Arabic to all traffic, warning and other

informational signs in their jurisdictions. In July 2002, the Supreme Court delivered its decision, 2-1, in favor of the petitioners' request. This is the first decision to be delivered in which the Supreme Court discussed the status of Arabic as an official language of the state. Also it is the first time that the Court ordered local authorities to use Arabic because it has special status. However, the Court did not rule that the Arabic language is equal in status to the Hebrew language; in fact, all three justices stressed the superiority and dominance of the Hebrew language in Israel. The majority opinion delivered by Chief Justice Barak and Justice Dorner is a very significant, positive step toward emphasizing the status of Arabic as an official language.

In his minority opinion, Justice Heshin, argued that there is no legal basis to compel the municipalities to add the Arabic language. In his view, every person has the right to express himself in his language, but this right places "no obligation to do" on governmental authorities. Further, he argued that the petitioners are actually asking the Court to recognize a new right: The collective right of the Arab community to have its own independent identity and culture through its language. In Justice Heshin's opinion, such a group right is not recognized in Israeli law. Israeli law sees the individual as holding rights, and it is not appropriate for the Court to create a new right; this is a matter for the Knesset. With this decision, Justice Heshin is essentially arguing that language rights issues are non-justiciable. This decision is very problematic, as it rejects any role for the Court in dealing with a major constitutional matter concerning 1/5 of the population, where Israel lacks any constitution to protect the Palestinian minority in the state. (H.C. 4112/99, *Adalah, et. al. v. The Municipality of Tel Aviv-Jaffa, et. al.*)

The Municipality of Ramle filed a request for a second hearing by the Supreme Court on 25 August 2002. The Attorney General's office joined that request on 15 September 2002. These motions are currently pending.

Submitted by:

Adalah: The Legal Center for Arab Minority Rights in Israel
2 October 2002