

Adalah Petitions Supreme Court Seeking Order to Pave Road Leading to Elementary School for 1,187 Arab Bedouin Children in Unrecognized Village of al-Fur'a in the Naqab

On 13 July 2005, Adalah filed a petition to the Supreme Court of Israel, demanding the issuance of an order to direct the Ministries of Education, the Interior, Construction and Housing, and Transport and the Abu Basma Regional Council in the Naqab (Negev) to provide a paved road to the elementary school in the unrecognized Arab Bedouin village of al-Fur'a in the Naqab. The petition was submitted by Adalah Attorney Marwan Dalal on behalf of three fathers of children studying at the school, the head of the Local Committee of the village of al-Fur'a, and in Adalah's own name.



*The Elementary School in al-Fur'a, photographed on 9 June 2005
(Source: Adalah)*

The petition concerned the lack of suitable and safe access to the elementary school in al-Fur'a, which has an enrolment of 1,187 Palestinian Bedouin pupils. There is currently no road connecting the village to the school, which is situated four kilometers away from the nearest main road running between the towns of Beer el-Sabe' (Beer Sheva) and 'Arad. During the winter months, rainfall makes the dirt track particularly treacherous. The difficulties or impossibility of reaching the school during the winter result in the frequent closure of the school and the suspension of lessons, with students and teachers alike unable to make the journey for fear of being injured. The lack of a safe, paved road to the school therefore greatly disrupts the pupils' educational progress.

Adalah included in the petition affidavits from the head of the village's Local Committee and pupils' parents, who describe the damaging impact which the lack of suitable and safe access to the school has on the education of their children, together with photographs of the school and the dirt track.

According to the affidavit of one of the petitioners, Mr. Khalil Ibrahim Gabouah, a father of five children between the ages of six and thirteen who study at the school in al-Fur'a:

As a result of the track, winter time is really difficult, especially for [the school] buses, because the rain and the floods which come prevent the bus from going through, mainly because the dirt track becomes impossible to travel along. Because of this, my children don't go to school on rainy days, because the school does not function on these days.



*The dirt track leading from al-Fur'a to the school, photographed on 9 June 2005
(Source: Adalah)*

As Adalah stated in the petition, a visit to the school and the unrecognized village of al-Fur'a was made by the Knesset Education and Culture Committee on 11 March 2004. During the visit the Head of the Committee, MK Ilan Shalgi, sharply criticized the conditions which he witnessed at the school. MK Shalgi is recorded in the protocol of the Committee as stating that:

[A]ccess to here [the school] is a disgrace and a scandal. When it rains, it is obvious what the situation is like here. The mind cannot conceive that the state of Israel would establish a school, even in an unrecognized village, but would not pave a road to enable access to the school. In addition to the issue of comfort, there is also the issue of safety. This we need to deal with first and foremost.

Adalah further quoted from a statement made by the principal of the school, Mr. Ali Ramadeen, before the Knesset Education and Culture Committee:

Did you go to see the track? And this is good access. If you'd been there in September or October, when there were floods, then you would have seen the real picture ... I suffer from this track. Every teacher I want to bring to school puts conditions on coming, saying that you need to take care of transporting me to and from the school ... Sometimes a child may develop fever, so how can we bring his parents? There are no telephones, no communication, or they are up on the hills with their sheep. If we need to go to the clinic, we need to find a car and a teacher to accompany the sick child. Do you understand what this track does? The track is part of the school. It influences what is going on in the school.

As Adalah stressed in the petition, the paving of the track leading to the school has already received governmental authorization. On 13 January 2004, a local construction plan for the construction of essential services in the Naqab – which include education – was endorsed by the National Council for Planning and Building. The plan authorizes the granting of permits for the construction of facilities in 16 specific locations, including the village of al-Fur'a. Further, the plan explicitly permits the paving of access roads to educational facilities, including schools.

In the petition, Attorney Dalal cited from the final report released by the official Or Commission of Inquiry in September 2003, which describes the realities in the unrecognized villages in the Naqab, including the lack of paved roads and the general inadequacy of educational facilities:

The residents of the communities, many of whom live in corrugated iron huts, did not enjoy an uninterrupted supply of electricity, running water, refuse disposal or paved roads. There was open sewage, which was also left to run through the towns in small streams towards residential areas. In addition, the health, education and welfare services are far from what is needed.

The UN Committee on Economic, Social and Cultural Rights (CESCR), in its Concluding Observations issued in 1998 and again in 2003, expressed its grave concern over the situation of the Palestinian Bedouin in Israel living in the unrecognized villages. One of the main observations made by the CESCR in 1998 was the extreme difficulty faced by the Bedouin in the unrecognized villages in accessing education due to a lack of basic services and infrastructure, including roads. In 2003, the CESCR reiterated its concerns over the situation of the Bedouin in the unrecognized villages, and the persisting gaps between the living conditions of Jewish and Bedouin citizens in the Naqab.

The petition contained a further excerpt from an article written by Dr. Daphna Golan-Agnon, an official in the Ministry of Education responsible for minimizing the gaps between the various population groups in Israel between 1999 and 2001. In her article entitled, "Why Arabs Are Discriminated Against in the Israeli Education System" Dr. Golan-Agnon poses the following questions, regarding the true meaning of the discrimination which she witnessed:

Why does the Education Ministry invest less in Arab pupils? Why are the classrooms in Arab education more crowded? Why do the teachers teach a lot of pupils? Why do the supervisors supervise a higher number of pupils? And why is it that the division of teaching hours is not equal? Why does the state of Israel invest less in Arab pupils? Why are Arab educational personnel not in charge of Arab education? What does it say about Israeli society? What kind of a community are we? How do we want to see ourselves in fifty years from now? In which community are we raising our children?

In order to provide the Court with a comprehensive picture of the context for the petition, Adalah also brought data from a report entitled, "Eligibility for the Bagrut Certificate According to Town in 2002-2003," published in June 2004 by the ADVA Centre for Information on Equality and Social Justice in Israel, an Israeli NGO. The report's statistics starkly illustrate the poor levels of educational attainment among the Arab Bedouin population in the Naqab, which are the lowest in the country.

According to ADVA, in 2003, for example, the percentage of Arab Bedouin students studying in the 12th grade was the lowest in the country, at just 64.4% of the total, compared with 84.1% of Jewish students as a whole, 92% of the students in economically prosperous towns, 89.2% of students in development towns, and 75.2% of students in Arab towns, exclusive of Arab Bedouin towns in the Naqab. Similarly, the percentage of Arab Bedouin students who qualified for a Bagrut matriculation certificate of those who completed the 12th grade was the lowest of all population groups at 25.6%, compared with corresponding figures of 51.5% of students in Jewish towns as a whole, 63.3% of students in economically prosperous towns, 49% of students in development towns, and 36.3% of students in Arab towns exclusive of Arab Bedouin towns in the Naqab. Unsurprisingly, the percentage of those who enter higher education from those

who pass the Bagrut matriculation examinations is also lowest among young Arab Bedouin in the Naqab, at 59.6%, compared with 86.7% of Jewish students as a whole, and 71.8% of Arab students exclusive of Arab Bedouin students in the Naqab.

The lack of adequate access to education and educational facilities at the level of elementary school education has a knock-on effect on the children's future educational achievement and the high-school level and beyond, which can only serve to perpetuate educational under-achievement among the Palestinian Bedouin in the Naqab in general, and those who live in the unrecognized villages in particular.

Adalah argued that the lack of a road to the school from the village of al-Fur'a severely violates the pupils' rights to education and access to education, under both Israeli and international human rights law. Adalah further argued that the Israeli authorities have a duty to use their authority where it is beneficial for citizens that they do so. Therefore, the relevant authorized bodies are under an obligation to grant the necessary permits, allocate the required budgets, commission the cutting and paving of a road to replace the dirt track, and take all other necessary steps in order to provide the pupils and teachers safe access to the school, Adalah emphasized.

Before bringing the case before the Supreme Court, Adalah made extensive inquiries to several ministries and governmental agencies, beginning with the Ministry of Education, via the Bedouin Education Authority, which referred the query to the Bedouin Development Authority, a body operating within the Israel Lands Administration. The Bedouin Development Authority, however, informed Adalah that it does not deal with issues relating to unrecognized villages. Adalah then approached the Abu Basma Regional Council, which in turn also passed the query on to the Bedouin Education Authority. The Ministry of the Interior in Beer el-Sabe also failed to respond to Adalah's inquiries. The lack of progress short of litigation reveals more than a lack of coordination or clear division of responsibility; it attests to the severe failure on the part of the state to guarantee the right to education for Arab Bedouin children living in the unrecognized villages.

The first hearing on the case has been scheduled for 4 August 2005, before Supreme Court Chief Justice Aharon Barak, and Justices Salim Jubran and Elyakim Rubenstein.

H.C. 6773/05, *Ali Afnan Jabouah, et. al. v. Ministry of Education, et. al.*