



## RESPONSE TO THE LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE THIRD PERIODIC REPORT OF ISRAEL

### NGO Report to the UN Human Rights Committee: Palestinian citizens of Israel Submitted 24 June 2010

Adalah – The Legal Center for Arab Minority Rights in Israel is pleased to submit this report to the UN Human Rights Committee to assist it in its consideration of Israel's Third Periodic Report of November 2008 during its review sessions on 12 and 13 July 2010. This report supplements and updates a report submitted by Adalah to the Human Rights Committee in August 2009, attached hereto as an annex.

### Question 2

*Please indicate why the State party has not yet included the right to equality and the prohibition of discrimination in the “Basic Law: Human Dignity and Liberty (1992)” and whether it envisages to do so. Please provide information on any measures envisaged to protect further the right to equality, in accordance with articles 2 and 26 of the Covenant, and to ensure that no discriminatory laws are enacted. In addition, please provide information on the measures taken by the State party to establish a national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134, annex), which vested with the competence to promote and protect human rights and consider complaints, including about discrimination.*

#### The continuing enactment of discriminatory laws

Adalah is not aware of any measures being undertaken by the State of Israel to protect further the right to equality. Indeed, over the last three years, several new laws have been enacted that discriminate against Palestinian Arab citizens of Israel. Increasingly, since the election of the right-wing Netanyahu-led government in 2009, coalition members have also introduced a raft of discriminatory legislation.<sup>1</sup> The new laws and bills include the following.

#### Citizenship and political rights

- *The Citizenship Law (1952):* Amendment No. 9 (Authority for Revoking Citizenship) (2008) to article 11 of the Citizenship Law revokes citizenship due to “breach of trust or disloyalty to the state”. “Breach of trust” is broadly defined and even includes the act of naturalization or obtaining permanent residency status in one of nine Arab and Muslim states which are listed by

<sup>1</sup> The coalition is composed of the Likud, Labor, Yisrael Beiteinu, Shas, United Torah Judaism, and the Jewish Home parties. The main campaign slogan used by Yisrael Beiteinu was “No loyalty, no citizenship,” and with this clearly racist message the party won 15 seats in the Knesset, making it the third largest party in the parliament.

the law, and the Gaza Strip. Allows for the revocation of citizenship without requiring a criminal conviction. There are numerous threats from members of the governing coalition to use this law against Arab political and civil society leaders who have been accused of or indicted for security offenses.

- *Basic Law: The Knesset*, enacted in 1958: Amendment No. 39 (Candidate who Visited a Hostile State Illegally) (2008) to Article 7A (a1) of The Basic Law: The Knesset denies the right to stand as a candidate for election to the Knesset to any individual who visited an “enemy states” without prior permission from the Interior Minister. The law was enacted to deter Arab members of Knesset from travelling to so-called “enemy states”. This new law adds to even greater restrictions on political participation rights enacted in 2002. Amendments in 2002 changed Section 7(A)(1) to read as, “denial of the existence of the State of Israel as a Jewish and democratic state” and added Section 7(A)(3), “support for armed struggle by a hostile state or a terrorist organization against the State of Israel” as an additional basis for disqualifying candidates and candidates’ lists. The law has been used repeatedly to attempt to disqualify almost all Arab candidates and political party lists from running in Knesset elections in 2003, 2006 and 2009.
- *The Regional Councils Law (Date of General Elections) (1994) Special Amendment (no. 6), 2009*: Grants the Interior Minister absolute power to declare the postponement of the first election of a Regional Council following its establishment for an indefinite period of time. The law previously stipulated that elections must be held within four years. The Knesset passed the law shortly before elections were due to take place to the Abu Basma Regional Council, which includes ten Arab Bedouin villages in the Naqab (Negev). The result of the law is that the current government-appointed Abu Basma Regional Council, comprised of a majority of Israeli Jewish members, remains in place, and therefore Arab Bedouin citizens of Israel have no right to vote for their local political representatives. *For more information, see the response to question 7, below.*

### Socio-economic rights

- *Absorption of Discharged Soldiers Law (1994) Amendment No. 7: Benefits for Discharged Soldiers (2008)*: Allows the use of military/national service as a criterion for the allocation of benefits in higher education. The vast majority of Palestinian citizens of Israel are automatically exempted from military service and do not serve in the Israeli army for political and historical reasons. Grants broad discretion to higher education institutions to award economic benefits to discharged soldiers beyond those provided to them under any other law. This law was enacted in response to a petition filed by Adalah against Haifa University for discriminating against Arab students in the allocation of student dormitory housing. Haifa University lobbied in favor of this law in the Knesset after the District Court ruled in 2006 that its policy for allocating dormitory housing to students discriminated against Arab students.<sup>2</sup>

### Land and property rights

- *The Israel Land Administration Law (2009)*: Institutes broad land privatization (much of the land owned by the Palestinian refugees and internally displaced persons would be subject to

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<sup>2</sup> Lawsuit 217/05, *Haneen Naamneh, et al. v. The University of Haifa* (decision delivered 17 August 2006).

privatization under the law and thus become out of reach); permits land exchanges between the state and the JNF, the land of which is exclusively reserved for the Jewish people; allows lands to be allocated in accordance with “admissions committee” mechanisms and only to candidates approved by Zionist institutions working solely on behalf of the Jewish people; and grants decisive weight to JNF representatives in a new Land Authority Council, which would replace the ILA.

- *Amendment (2010) to The Land (Acquisition for Public Purposes) Ordinance (1943)*: This Mandate-era law authorizes the Finance Minister to confiscate land for “public purposes,” leaving the definition of such purposes to the absolute discretion of the Finance Minister. It has been used extensively by the state to confiscate Palestinian land. The amendment confirms state ownership of land confiscated under this law, even where it has not been used to serve the original purpose of its confiscation. It authorizes the state not to use the confiscated land for the original confiscation purpose for 17 years, and denies citizen landowners the right to demand the return of confiscated land not used for the original confiscation purpose if ownership has been transferred to a third party, or if more than 25 years have passed since the confiscation. The amendment expands the Finance Minister’s authority to confiscate land for “public purposes,” which, according to the new law, includes the establishment and expansion or development of towns, and allows the Minister to declare a new purpose if the initial purpose has not been realized.

#### The introduction of a raft of new discriminatory bills

In addition, a slew of discriminatory legislative proposals are currently at different stages of passage through the Knesset. These bills seek, for example, to undermine the ability of Palestinian citizens of Israel to participate in the political life of the country by imposing “loyalty” oaths to Zionism,<sup>3</sup> to turn citizenship from a right into a conditional privilege,<sup>4</sup> and to criminalize political expression or acts that question the Jewish/Zionist nature of the state.<sup>5</sup> Many of these bills have received strong support within the Knesset and have been endorsed by the government.

Adalah calls on the Committee to issue a recommendation to Israel to cancel laws that discriminate against Arab citizens and harm their right to equality. Further, the Israeli government should not lend

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<sup>3</sup> A proposed amendment to *The Basic Law: The Government—Loyalty Oath* stipulates that upon taking up the office of minister, all ministers must make an oath to the state as a “Jewish, Zionist and democratic state” and to the values and symbols of the state. Ministers are currently required to make an oath only to the state. Bill no. 5/18, introduced on 1 April 2009. A proposed amendment to *The Basic Law: The Knesset* requires all MKs to make an oath to the state as a “Jewish, Zionist and democratic state” and to the values and symbols of the state. Bill no. 7/18, introduced on 1 April 2009. A further proposed amendment to *The Basic Law: The Knesset* requires MKs to swear allegiance to the State of Israel as a “Jewish and democratic state.” Bill no. 226/18, introduced on 1 April 2009.

<sup>4</sup> For example, a proposed amendment to *The Citizenship Law – 1952* seeks to impose the following pledge of loyalty on anyone receiving Israeli citizenship (by birth or naturalization) and on any citizen or resident applying for a national identity card, received at the age of 16 and which it is obligatory to carry on one’s person: “I pledge to be loyal to the State of Israel as a Jewish and Zionist state, to its values and to its flag, and to serve the state in any way asked of me in military service as required by law.” It would also authorize the Interior Minister to revoke the citizenship of Israeli citizens who do not fulfill military or alternative national service. Bill no. 102/18, introduced on 1 April 2009. *For more information, on this bill see the answer Question 25, below.*

<sup>5</sup> A new bill commonly referred to as “the Nakba Law”, an amendment to *The State Budget Law—1985*, proposes to ban all bodies that receive state funding from spending money on an activity that, inter alia, “commemorates Independence Day or the day of the establishment of the state as a day of mourning.” Article 3B(a)(1) of *The State Budget Law, Amendment: Prohibited Expenses—2009*, bill no. 18/1403, approved for first reading in the Knesset plenum in February 2010.

its support and should seek to block all pending bills that discriminate against Arab citizens of Israel.

## Question 6

*What measures is the State party taking to ensure that Arab citizens of Israel are able to use their own language and enjoy their own culture, in accordance with article 27 of the Covenant? Please comment on the July 2009 decision of the Transport Minister to remove the Arabic names of towns and villages from all road signs in the State party and to replace them with Hebrew names.*

### The Hebraicization of Arabic road signs

On 3 September 2009, Adalah received a letter from the Attorney General's Office (AG) stating that the decision of the Minister of Transport to Hebraicize all road signs in Israel was not final, and that the issue remains under consideration by a sub-committee.<sup>6</sup> No further update has since been received.

### No Arabic on road signs in mixed cities, in defiance of previous Supreme Court judgment

Adalah has recently received reports that new or replaced road signs, signs denoting street names, signs for public institutions, etc. in the mixed Arab-Jewish city of Natzaret Illit had been erected that display Hebrew and English only, in violation of a Supreme Court decision from 2002 that stipulates that they must also display Arabic.<sup>7</sup> The decision was delivered in response to a joint petition filed by Adalah and the Association for Civil Rights in Israel (ACRI) in June 1999. At the time of the petition's filing, the signs appeared only in Hebrew and/or in English. The petitioners based their argument on the fact that Arabic is an official language in Israel, together with the Hebrew.

On 19 November 2009, Adalah wrote to the Municipality of Natzaret Illit and the AG demanding the implementation of the Supreme Court's 2002 decision in Natzaret Illit. The AG replied on 29 November 2009, stating that they would check the answer and revert to Adalah.<sup>8</sup> No further response has been received.

### Limited use of the Arabic language by state bodies

In practice, the usage of the Arabic language by state bodies and in official fora remains very limited, despite its official status. The official status of Arabic in Israel, alongside Hebrew, was established by Article 82 of the Palestine Order-in-Council – 1922, which was subsequently adopted into Israeli law and remains valid today.<sup>9</sup> It was further reinforced by the Knesset and the Israeli government in several statutes and regulations.<sup>10</sup> Arabic's official-language status is also evident in the Declaration of Independence.

In practice, however, Arabic speakers in Israel have little opportunities to enjoy and use their language after completing their primary and secondary schooling outside the private sphere and within their

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<sup>6</sup> The letter is on file with Adalah.

<sup>7</sup> See HCJ 4112/99, *Adalah, et al. v. The Municipalities of Tel Aviv-Jaffa, et al.*, decision delivered on 25 July 2002.

<sup>8</sup> The letters are on file with Adalah. Adalah is also monitoring the use of Arabic on signs in other mixed cities.

<sup>9</sup> This article was amended through Section 15B of the Law and Government Ordinance – 1948 to eliminate English as an official language, as stipulated by Article 82 of the Palestine Order-in-Council – 1922, leaving Arabic and Hebrew as Israel's two official languages.

<sup>10</sup> See the Supreme Court's decision in HCJ 4112/99, *Adalah, et al. v. The Municipality of Tel Aviv-Jaffa, et al.*, delivered on 25 July 2002, Justice Dalia Dorner's decision.

own community. As a result of government policy, the status of Arabic is vastly inferior to that of Hebrew in terms of the resources dedicated to its use and the opportunities granted to Arabic speakers to enjoy and use their language in official and public fora. The minimal use of Arabic in the public sphere and by public institutions contradicts its official status. Examples include:

- Over 200 major principle decisions issued by the Supreme Court have been translated to English, and have been published on the court's website along with the original Hebrew decisions. Although the majority of these decisions are relevant to Palestinian citizens of Israel and Palestinians in the OPT, none of them has been translated to Arabic. 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. Adalah argued that the lack of Arabic translations of these important decisions impedes access to the legal system and justice for Arabic speakers. The Director of Courts responded on 16 May that for budgetary reasons the translation of court decisions to Arabic was "complicated," but was under consideration.<sup>11</sup>
- Adalah has been contacted by Arab citizens of Israel living in the Naqab (Negev) who have approached the Interior Ministry to change their personal status, and have been informed that the ministry does not accept documents in Arabic. Because issues of personal status are dealt with by the religious courts, many of these forms are provided by the *Shari'a* (Islamic) court system in Arabic only. Despite the official status of Arabic, however, the ministry has obliged these individuals to provide notarized translations of the documents in Hebrew, which incurs significant expenses. This policy also contradicts a regulation issued by the Attorney General in 2000 which stipulates that official documents that are submitted to public authorities should accept documents in their original language in the specific case of Arabic. Thus, the ministry's refusal to accept official documents in Arabic turns an individual's right in this case into a duty with a financial burden. Adalah sent a letter to the Ministry of the Interior on 20 June 2010 demanding that it accept original documents in Arabic and not compel individuals to bear the costs of translating them to Hebrew.
- The application forms for subsidized governmental benefits that are paid to persons who suffer from psychiatric disorders are available only in Hebrew and are not translated into Arabic. As a result, many Arab individuals who are eligible for these benefits do not apply for them due to their inaccessibility. Adalah wrote to Ministry of Health to demand that the forms be made available in Arabic on 7 April 2010. No response has yet been received.
- Adalah has also demanded that the regulations of the Ministry of Education that govern the rights and obligations of pupils, parents and teachers should be translated and made available in Arabic, in a letter sent on 29 April 2010. The letter followed a request made by the chairperson of the Arab National Parent's Committee, who stated that some parents were unable to read Hebrew and therefore were unable to access this information. On 27 May 2010 the MOE replied that there was a technical problem with translating such regulations to Arabic, but that the ministry was considering conducting a pilot scheme to translate the regulations in the field of violence in schools.

#### Denial of the right to cultural contact with other Arab communities

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<sup>11</sup> This correspondence is on file with Adalah.

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, travel is prohibited 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 right of minorities to enjoy their own culture, as protected by Article 27 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>12</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’s travel.

## Question 7

*Please elaborate on the measures taken by the State party to respect and protect the rights of Arab Bedouins to their land and traditional way of life; to stop demolitions of their homes, and to provide them with adequate basic infrastructure and services, including electricity, water, education and health facilities.*

Regarding the policies of the State of Israel towards the Arab Bedouin in the Naqab, Adalah wishes to advise the Committee of the following developments, which threaten their rights and traditional way of life.

### Closure of health facilities in the unrecognized villages

In October 2009, the Ministry of Health closed down “mother and child” clinics in the three unrecognized Arab Bedouin villages of Qasr el-Ser, Abu Tulul and Wadi el-Niam in the Naqab. Adalah petitioned the Supreme Court in December 2009 to demand the immediate reopening of the clinics.<sup>13</sup> The three clinics are part of a group of six clinics established in the unrecognized villages in the Naqab – where none previously existed – following a Supreme Court petition filed by Adalah in 1997.<sup>14</sup> The ministry initially failed to fulfill its commitment to open the clinics and was in contempt of court for several years. It was only after sustained pressure from the petitioners that the

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<sup>12</sup> HCJ 2390/10, *Hlehel v. The Minister of the Interior* (case pending). 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, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=13\\_04\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=13_04_10)

<sup>13</sup> HCJ 10054/09, *Widad El-Hawashly, et al. v. The Ministry of Health* (petition pending).

<sup>14</sup> HCJ 7115/97, *Adalah, et al. v. Ministry of Health, et al.* (decision delivered March 1999).

Ministry of Health set up the clinics in 2000 and 2001.<sup>15</sup>

The clinics, which offer essential preventive health services and post-natal care, had served around 18,000 people. The closure of the clinics endangers the health and potentially the lives of thousands of pregnant women, mothers and children.

The ministry claimed that the closure was due to a lack of nurses and doctors willing to work in the clinics, and proposed that the Arab Bedouin women who live in these villages should travel to nearby Jewish towns. However, the nearest clinics providing parallel services are located at least 20 kilometers from their villages. The distances and total lack of public transport to and from the unrecognized villages means that many women and children have simply stopped receiving these health services.

The closure of the clinics is particularly alarming given the extremely poor health situation in the unrecognized villages, especially among women and children. The infant mortality rate is the highest in the country, and the average birth weight is the lowest. Many children do not receive compulsory immunizations, provided by mother and child clinics, and the rate of infectious disease is the highest in Israel.<sup>16</sup>

#### The failure to provide adequate educational facilities

In line with an Israeli Supreme Court decision delivered in January 2007, the State of Israel was obliged to open a high school in the unrecognized Arab Bedouin village of Abu Tulul, the first in any of the unrecognized villages in the Naqab, by September 2009.<sup>17</sup> Despite the court's order and the dire need for a high school to serve the local Bedouin community, as of June 2010 the school has yet to be opened. In September 2009, Adalah filed a second petition to the Supreme Court to demand that the state be obliged to implement its decision from January 2007.<sup>18</sup>

As a result of the state's non-compliance, there is still not a single high school to serve students in any of the unrecognized villages. The absence of accessible high school education perpetuates the high poverty, school drop-out and unemployment rates that plague these communities.

The Supreme Court's decision was delivered in response to a petition submitted by Adalah in 2005. In the initial petition, Adalah demonstrated that the lack of a local high school in the area, which is home to approximately 12,000 Arab Bedouin citizens of Israel, has led to an alarmingly high drop-out rate among high school age pupils, which currently stands at 55%, compared to a national average rate of just 4.6%. The drop-out rate is particularly high among girls, currently as high as 77%.

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<sup>15</sup> For more information, see Adalah, *Adalah Petitions Supreme Court against Health Ministry Demanding Re-Opening of Mother and Child Clinics in Three Arab Bedouin Unrecognized Villages in the Naqab*, 16 December 2009, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_12\\_16](http://www.adalah.org/eng/pressreleases/pr.php?file=09_12_16)

<sup>16</sup> See, The Working Group on the Status of Palestinian Women Citizens of Israel, *NGO Alternative Report on Israel's Implementation of CEDAW*, May 2005, Chapter on Health, pp. 24-27, available at: <http://www.adalah.org/features/women/IWRAW.pdf>

<sup>17</sup> HCJ 2848/05, *Fatimah Abu Sabila (Ali) et al. v. The Ministry of Education, et al.* (decision issued 23 January 2007).

<sup>18</sup> HCJ 7562/09, *Fatmeh Abu Sbeli, et al. v. The Ministry of Education, et al.* (petition pending). The petitioners further demanded that the non-implementation of the decision to date be considered as a contempt of court. For more information, 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, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_09\\_29](http://www.adalah.org/eng/pressreleases/pr.php?file=09_09_29)

### No right to representation in local government

Compounding the deliberate neglect of the unrecognized Arab Bedouin villages is the lack of representative and democratically-elected local government that reflects the priorities and concerns of those living within its jurisdiction.

The Abu Basma Regional Council, established by the state in 2004, includes ten government-planned and/or recognized Arab Bedouin villages. It is also responsible for providing or coordinating certain services for residents of the unrecognized villages within its jurisdiction. Approximately 25,000 people fall within its jurisdiction.

According to *The Regional Councils Law (Date of General Elections) – 1994*, elections to a regional council must be held within four years of its establishment. However, in 2009, shortly before the first elections to the Abu Basma Regional Council were due to take place, the Knesset passed an amendment to the law<sup>19</sup> that grants the Interior Minister absolute power to postpone initial elections to a regional council for an indefinite period of time.

The result of the law is that the current government-appointed council, comprised of a majority of Israeli Jewish members, and chaired by a person close to the right-wing Jewish Orthodox Shas party, to which the Interior Minister (who initiated the amendment of the law) belongs, remains in place. Under the new law, the current council can remain in place for an indefinite period of time. The local residents have no right to vote for their local representatives.

The absence of an elected, representative structure of local governance hinders attempts by the Arab Bedouin to improve their material situation and exercise their rights through democratic means. It also stands in violation of the rights of the council's residents to run for and be elected to the council.<sup>20</sup> Adalah and the Association for Civil Rights in Israel (ACRI) have jointly petitioned the Supreme Court against this law.<sup>21</sup>

### The attempted evacuation of the unrecognized village of Atir-Umm al-Hieran

The State of Israel is continuing to implement its policy of demolishing homes in the unrecognized villages in the Naqab and evicting their residents, even those that were established before the founding of the state in 1948 and those who were moved to their current locations at the order of the state. This policy violates the rights to privacy (Article 17 of the ICCPR), equality (Article 26), dignity and property of the Arab Bedouin in the Naqab. Most residents refuse the minimal compensation offered by the state.

There has been no official registration of the ownership of the majority of land in the Naqab. According to Bedouin custom, land ownership was governed by social and traditional rules which developed over hundred of years. The state does not recognize these customs of land ownership.<sup>22</sup>

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<sup>19</sup> The Regional Councils Law (Date of General Elections) – 1994, Special Amendment (no. 6), 2009.

<sup>20</sup> For more information, see Adalah, *New Law Deprives 25,000 Arab Bedouin Citizens of Israel of Right to Vote in Local Elections in the Naqab*, November 2009, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_11\\_19\\_9](http://www.adalah.org/eng/pressreleases/pr.php?file=09_11_19_9)

<sup>21</sup> HCJ 3183/10, *Hussein Rafeea, et al v. The Minister of the Interior, et al.* (case pending). A hearing has been scheduled for February 2011.

<sup>22</sup> In the early 1970s the Israeli authorities began to allow Arab Bedouin citizens of Israel in the Naqab to submit land registration applications in accordance with The Land Registration Ordinance – 1969. In response, some Arab Bedouin citizens submitted applications for hundreds of thousands of dunams of land. Under this process, the state claimed



The case of the village of Atir–Umm al-Hieran provides an illustrative example of the state’s policies of forced evacuation towards the Arab Bedouin living in the unrecognized villages in the Naqab.

Atir–Umm al-Hieran was established by order issued by the Israeli military governor in 1956, after the military forces had forcefully evicted its residents from their homes in the Wadi Zuballa area of the Naqab. This transfer was not the first time that the villagers were evicted from their homes: they were displaced in 1948 to the Hirbat al-Hanzail area and then to the Kokheh and Abu Kaff area. In 1956, the villagers were displaced for the third time to the Wadi Atir area, where they live today. At the time, the residents received assurances from the military governor in the region that this move would be the last time they would be forced to leave their village. Today, there are 150 families living in the village, with a population of around 1,000 people, citizens of Israel. Adalah has been representing them against the state’s attempts to displace and dispossess them since 2004.

In April 2004, the state of Israel filed lawsuits to the Magistrates’ Court in Beer el-Sabe (Beer Sheva) requesting that evacuation orders be issued against the residents of Atir-Umm al-Hieran. The lawsuits were based primarily on the claim that the inhabitants of the village are using state land without permission and that they therefore need to evacuate the territory and be prevented from using it in the future. On 30 July 2009, the Magistrates’ Court accepted the state’s claims and delivered a decision which ordered the eviction of the residents named in the lawsuits from their homes.

In its decision, the Magistrates’ Court considered that the presence of the residents of Umm al-Hieran on the land depended solely on the will of the state, which the state could withdraw at any time; accordingly they can be expelled from the land. The court did not accept the argument that because the residents have invested in the village, built their homes and lived their lives there for more than fifty years, they are the rightful owners of the land, as legal precedents confirm.

Adalah submitted an appeal<sup>23</sup> to the Beer Sheva District Court on 21 October 2009 against the Magistrates’ Court’s decision, demanding that the court cancel the eviction orders and prevent the evacuation of the entire village, which the state is seeking through this and other eviction proceedings pending before the courts.<sup>24</sup> Adalah argued that the court had ignored the historical circumstances that brought the Arab Bedouin inhabitants to this village and did not afford the appropriate weight to villagers’ wish to continue living in their village, after being uprooted on several previous occasions.

The appeal also emphasized that the State had not identified any public benefit or public interest that would result from evacuating the residents and demolishing the village. Rather, the only objective behind the demolition is the establishment of a Jewish town, named “Hiran”, on the land where Umm al-Hieran is currently situated. The establishment of the settlement of Hiran was approved by the National Council for Planning and Building on 9 April 2002 and by the government in its decision no.

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ownership of lands that were not registered in the Land Registry (*Tabu*). Simultaneously, those holding or residing on land were given an opportunity to claim and prove ownership of the land. However, many landowners did not know of the new process or the right to claim land ownership. Moreover, the authorities have not examined the applications that were submitted.

<sup>23</sup> Beer el-Sabe District Court, Civil Appeal 11165/09, *Ibrahim Abu Al-Qia’an et al. v. The State of Israel* (pending).

<sup>24</sup> See, Adalah, *Adalah Appeals against Court Decision Evicting Residents from Arab Bedouin Unrecognized Village of Umm al-Hieran in the Naqab: Israel Land Administration Seeks to Evacuate the Village and Build Jewish Town of Hiran on the Land*, 25 October 2009, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_10\\_25\\_1](http://www.adalah.org/eng/pressreleases/pr.php?file=09_10_25_1)

2265, dated 21 July 2002. A report by the Israel Land Administration (ILA) identifies the Arab Bedouin inhabitants of the area as a “special problem” that may affect the establishment of Hiran.<sup>25</sup>

Adalah urges the Committee to recommend that Israel grant official recognition to Atir–Umm al-Hieran and the other unrecognized Arab Bedouin villages in the Naqab, allow their residents to remain on their land and refrain from forcibly evicting them.

## Question 9

*In light of general comment No. 29 of the Committee on States of Emergency (art. 4) and of the serious concerns and recommendations expressed by the Committee in its previous concluding observations (CCPR/C/79/Add.93, para. 11, and CCPR/C0/78/ISR, para. 13) regarding the continued state of emergency in Israel since independence, please provide detailed and updated information on progress in the implementation of the “joint program to complete the needed legislative procedures required in order to end the state of emergency” mentioned in paragraph 159 of the State party’s report and indicate the timeline for completion.*

The state of emergency, declared in 1948, remains firmly in place. There have not been significant steps forward in either revoking the state of emergency or in severing the link between existing legislation and the ongoing state of emergency. Over ten years ago, in 1999, the Association for Civil Rights in Israel (ACRI) petitioned the Israeli Supreme Court demanding that the state of emergency not be renewed. The petition still remains pending before the court.<sup>26</sup> In September 2008, the Supreme Court issued an interim decision in the case in which it ruled that the state’s progress in ensuring that legislation is not anchored to the declared state of emergency had not been satisfactory.<sup>27</sup>

The latest state response in the case was filed on 1 April 2009.<sup>28</sup> According to the state, it has discretion over whether a state of emergency is or is not in place as a result of the current security situation in Israel. The state added that work undertaken by various ministries to separate existing legislation from the state of emergency had not been completed but was ongoing.

The Knesset extended the state of emergency via Article 38 of the *Basic Law: The Government (Declaration of a state of emergency)* in June 2009 for a further year, until 29 June 2010. It is expected that the Knesset will extend the state of emergency once again after this date.

## Question 23

*Please provide updated information on the measures taken, if any, following the announcement made by the State party regarding the adoption of a provision on an alternative service of a civilian nature for conscientious objectors. Please provide information about measures taken by the State party to advocate the cessation of the provision of funds from sources abroad to non-governmental organizations in Israel, including those whose members formerly served in the Israel Defense Forces, such as “Breaking the Silence”.*

Over the last period, and in particular since the Israeli war on against Gaza, “Operation Cast Lead,” (OCL, 27 December 2008 and 18 January 2009), Israel has attempted to impose stringent limits on

<sup>25</sup> Israel Lands Administration and the Ministry of National Infrastructure, *New and Renewed Settlements in Israel*, Jerusalem, 2001 (Hebrew).

<sup>26</sup> See HCJ 3091/99, *The Association for Civil Rights in Israel v. The Knesset* (case pending).

<sup>27</sup> The court’s decision is available in Hebrew at:

<http://elyon1.court.gov.il/files/99/910/030/T28/99030910.t28.htm>

<sup>28</sup> Information obtained from the Legal Advisor to ACRI in June 2010. State response on file with ACRI.

human rights organizations, especially those that defend human rights in the OPT. The Goldstone Mission was mandated to investigate all suspected violations of international human rights law and international humanitarian law committed in the context of OCL. While Israel refused to cooperate with the Mission, Palestinian, Israeli and international human rights organizations provided it with extensive information about incidents that occurred during the attack. The Mission concluded, inter alia, that Israeli forces had committed violations of international human rights law and international humanitarian law, some of which amounted to grave breaches of the Geneva Conventions,<sup>29</sup> but was dismissed by Israel as politically motivated and one-sided.<sup>30</sup> Many NGOs provided information to the Goldstone Mission.

Following the publication of the Goldstone Report human rights NGOs in Israel faced an increasingly hostile attack in which government ministers, MKs and right-wing NGOs have partaken. The situation even deteriorated to the point that the Knesset discussed the possible establishment of a parliamentary committee to investigate the activities of human rights organizations.<sup>31</sup> Government spokespersons have given interviews in the media calling human rights groups “a strategic threat,” casting them as traitors and spreading misinformation about their activities.

#### The “war on draft evasion”

On 26 April 2009, six members of New Profile,<sup>32</sup> an Israeli feminist and pacifist organization, were arrested by Israeli police, their homes searched and their computers seized.<sup>33</sup> The reason given by the police for the arrests was an investigation against the websites of New Profile and Target 21,<sup>34</sup> a Russian language website, for violations of article 109 of the Israeli Penal Law, “incitement to evade military service“, which carries a five-year prison penalty. The investigation was opened in September 2008 –the first time a criminal probe had ever been launched against a group for allegedly encouraging draft dodging – following the declaration of a “war on draft evasion” by Defense Minister Ehud Barak and IDF Chief of Staff Gabi Ashkenazi in summer 2008.<sup>35</sup>

In July 2009, Breaking the Silence (an NGO of veteran Israeli soldiers that collects testimonies of soldiers who served in the OPT since the Second Intifada regarding abuses against Palestinians and demands accountability for these actions) issued a report in which 30 Israeli soldiers who participated in the fighting in Gaza during OCL provided testimonies about their combat experiences.<sup>36</sup> In these testimonies, the soldiers revealed sharp disparities between the official Israeli army version of events and actual “accepted practices” on the ground. Immediately after the publication of the report, the Israeli army and Ministry of Defense initiated a smear campaign

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<sup>29</sup> Ibid. para. 1935.

<sup>30</sup> See, Israeli Ministry of Foreign Affairs, *The UNHRC fact-finding mission led by Richard J. Goldstone - investigation or politics?*, available at: <http://www.mfa.gov.il/GazaFacts/Goldstone/israel-gaza-faq-goldstone-mission.htm>

<sup>31</sup> In February 2010, Israeli lawmakers voted to establish a parliamentary sub-committee to “investigate” human rights groups in Israel which are supported by the New Israel Fund. Although no such committee has been formed, the pretext for this investigation is that the groups provided information to the Goldstone Mission.

<sup>32</sup> New Profile provides free counseling to Israeli youth who wish to become conscientious objectors, leave the army on grounds of mental health, or to replace the draft by volunteering for national civic service. See: <http://www.newprofile.org>

<sup>33</sup> See statement of War Resisters International: <http://www.wri-irg.org/de/node/7517>

<sup>34</sup> <http://www.target-21.h1.ru/>

<sup>35</sup> See Amos Harel and Haaretz Correspondent, “Website for IDF draft dodgers faces criminal probe,” 15 September 2008, *Haaretz*, available at: <http://www.haaretz.com/hasen/pages/1020999.html>; see also the letter of New Profile Attorney Smadar Ben Natan to the State Prosecutor protesting the drastic step of initiating a criminal investigation in this case: <http://www.newprofile.org/english/?p=91>

<sup>36</sup> See [http://www.shovrimshatika.org/oferet/news\\_lem\\_e.asp?id=1](http://www.shovrimshatika.org/oferet/news_lem_e.asp?id=1)

against the organization by depicting them as traitors and de-legitimizing the testimonies as hearsay statements of anonymous sources. Further, the Prime Minister and the Israeli Foreign Ministry have called on at least three European governments to stop providing funds to the organization (Spain, Holland and the UK).<sup>37</sup>

#### Bills seeking to severely limit the work and delegitimize human rights organizations

In this restrictive political climate, the government and MKs have introduced a number of bills that seek to restrict and impair the freedom of expression and freedom of association of human rights organizations in Israel. They include the following bills, which are in the process of legislation before the Knesset.

- *Bill on disclosure requirements for recipients of support from a foreign political entity – 2010*<sup>38</sup>

This bill, which represents an escalation of the calls to block foreign funding to Breaking the Silence, received the support of the government on 14 February 2010. It passed a preliminary vote in the Knesset plenum on 17 February 2010. The provisions of the bill threaten the work and even the existence of human rights NGOs by:

- Defining civil society groups that work to influence public opinion or governmental policy as engaging in “political activity” and requiring them to register with the Registrar of Political Parties.
- Forcing representatives of civil society groups to state in every private and public platform related to their advocacy work that their organizations receive funding from “foreign political entities” (foreign governments). Should they fail to do so, principal activists within these groups would face fines and imprisonment of up to one year.
- Revoking the tax-exempt charity status of NGOs promoting policy change, so that they would have to pay taxes on donations or other income, thereby threatening the ability of donors to support their work.
- Making it compulsory for member-based organizations to register their members’ identity numbers and addresses, information that could also be disclosed to the public, potentially allowing for harassment and discouraging participation.

While the declared purpose of the bill, as stated in its explanatory notes, is “to increase transparency and repair loopholes in legislation in relation to the financing of political activity in Israel by foreign political entities,” it is superfluous since every non-profit organization in Israel is already required under Israeli law to list its donors and other financial information on its website and to report annually to the government, specifying whether foreign governments have donated money.<sup>39</sup>

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<sup>37</sup> See Barak Ravid, “Israel asks Spain to stop funding group that reported IDF ‘crimes’ in Gaza,” *Haaretz*, 2 August 2009, available at: <http://www.haaretz.com/hasen/spages/1104513.html>, and Barak Ravid, “Netanyahu assails group that alleged IDF wrongdoing in Gaza,” *Haaretz*, 25 August 2009, available at: <http://www.haaretz.com/hasen/spages/1110037.html>

<sup>38</sup> Bill no. P/18/2081, passed a preliminary reading in the Knesset by a 58-11 majority. An unofficial English translation of the bill is available at:

<http://www.adalah.org/newsletter/eng/feb10/docs/Unofficial%20English%20translation%20of%20NGO%20legislation.pdf>

<sup>39</sup> The Association for Civil Rights in Israel has cautioned against “misuse of (purported) transparency and reporting mechanisms for the purpose of negatively impacting the legal and legitimate activities of individuals, groups or bodies of various sorts; against utilizing these tools to eliminate and silence political or ideological opponents.” The

- *The Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association) – 2010*

This bill was introduced by nineteen members of the Knesset on 8 February 2010 seeking to outlaw associations which give information to foreigners or are involved in litigation abroad against senior officials of the Israeli government and/or army chiefs for war crimes.<sup>40</sup> The bill would prohibit the registration of any NGO if “there are reasonable grounds to conclude that the association is providing information to foreign entities or is involved in legal proceedings abroad against senior Israeli government officials or IDF [Israeli military] officers, for war crimes.” An existing NGO would be shut down under the proposed law for engaging in such activity.

The bill violates the rights to freedom of expression and to seek, receive and impart information, as protected by Article 19 of the ICCPR, as well as the right to freedom of association, as protected by Article 22. Because it essentially seeks to conceal information or suspicions of a crime, it completely contradicts the customary norms of international criminal law and international humanitarian law (IHL) to which the State of Israel is bound. It constitutes a dangerous step against the human rights organizations and anyone who opposes war crimes. In Adalah’s view, the legislation seeks to restrict the freedom of expression and freedom of association of these organizations, and creates public de-legitimization of their educational, legal and public role.<sup>41</sup>

The text of the bill refers directly to the Goldstone Report as follows, using it to justify its provisions, “The UN’s one-sided and controversial report by Judge Goldstone, on the IDF’s [Israeli military’s] actions in Gaza during “Operation Cast Lead”, brought Israel to an unprecedented low in terms of publicity.” It further states, “It is very troubling that... we find that Israeli NGOs and associations, through passing of information (mostly incorrect and even fraudulent) to foreign authorities who are our enemies, and through public agreement or approval that Israel is guilty of war crimes. Sometimes they even provide significant legal assistance in phrasing the legal claims. The underlying assumption behind this bill is that this type of activity must be made illegal.”

A coalition of the General Directors of human rights organizations in Israel named the Directors’ Forum responded to the bill by describing as “the direct result of irresponsible leadership that is doing all it can to undermine democratic values and the institutions that are the backbone of a democracy: the Supreme Court, a free press, and human rights organizations. A public sphere without these institutions operating independently of the government is a public sphere that is crippled and anti-democratic at its core.”<sup>42</sup> In addition, a joint statement against the bill was also published by the Observatory for the Protection of Human Rights Defenders (a joint programme of the International Federation for Human Rights – FIDH and the World Organisation Against Torture

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Association for Civil Rights in Israel, position paper on the bill, 23 February 2010, available at: <http://www.acri.org.il/eng/story.aspx?id=706>

<sup>40</sup> Bill no. P/18/2456. An English translation of the bill is available at: <http://www.adalah.org/newsletter/eng/apr10/bill.pdf>

<sup>41</sup> See Adalah, *The Proposed Bill to Conceal Information Constitutes an Admission by its Proponents that Israel has Committed War Crimes*, 29 April 2010, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=29\\_04\\_10\\_2](http://www.adalah.org/eng/pressreleases/pr.php?file=29_04_10_2)

<sup>42</sup> The response was issued by the following organizations: Adalah – The Legal Center for Arab Minority Rights in Israel, The Association for Civil Rights in Israel, Bimkom – Planners for Planning Rights, B’Tselem – The Israeli Information Center for Human Rights in the Occupied Territories, Gisha – Legal Center for Freedom of Movement, HaMoked – Center for the Defence of the Individual, Physicians for Human Rights – Israel, The Public Committee Against Torture in Israel, Rabbis for Human Rights, and Yesh Din – Volunteers for Human Rights. The response is available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=29\\_04\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=29_04_10)

– OMCT), The Center for Constitutional Rights (CCR), Redress and the Euro-Mediterranean Human Rights Network – EMHRN.<sup>43</sup>

- *Bill on “Prohibition on imposing a boycott – 2010” (“The Ban on BDS Bill”)*

Twenty-four MKs from the government coalition and the opposition introduced this new bill on 15 June 2010, which proposes to outlaw any activities promoting any kind of boycott against Israeli organizations, individuals or products.<sup>44</sup> The bill targets Israelis, the Palestinian Authority, Palestinians and foreign governments and individuals, and seeks to impose heavy fines, economic sanctions and entry bans on supporters of boycott activities.

This bill was proposed after a decision was taken by the Palestinian Authority in the West Bank to cut all business ties with Israeli settlements and to boycott their produce, and in response to a growing academic boycott of Israeli universities. It targets all supporters of the boycott, divestment and sanctions (BDS) movement.

The explanatory notes to the bill state that, “This law aims to protect the state of Israel in general and its citizens in particular from academic, economic and other boycotts, which are imposed as a result of any ties to the state of Israel... the assumption is that a citizen or resident of the state shall not call for the imposition of a boycott on his own country or of its allies ...”

If passed, these three proposed bills will criminalize the activities of many NGOs in Israel and seriously damage their financial viability, as well as their ability to function in their legitimate capacity as human rights defenders in Israel.

In parallel, a particularly virulent campaign of incitement has been launched in recent months by a radical, right-wing Israeli group, Im Tirtzu – The Second Zionist Revolution, aimed at delegitimizing the New Israel Fund and many human rights organizations that it supports in Israel. In February 2010, Im Tirtzu launched a campaign against human rights organizations which focused on the provision of information by these organizations to the Goldstone Mission. In April 2010, the group released a report accusing at least twelve Israeli human rights organizations of support for or involvement in the indictment of Israeli officials for serious violations of international law in courts overseas, acting in accordance with the principle of universal jurisdiction.

In the current political climate in Israel, the extremist right-wing rhetoric espoused by some ministers and MKs, as well as right-wing groups including Im Tirtzu and the NGO Monitor, constitutes dangerous incitement against human rights organizations based in Israel, particularly those that defend the rights of Palestinians in the OPT.

Adalah calls on the Committee to make a recommendation to Israel to respect the rights to freedom of expression, assembly and association of human rights defenders in Israel, to investigate any threats or attacks waged against them, and cancel any pending bills that represent serious threats to the legitimate work of human rights organizations in Israel.

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<sup>43</sup> Joint Public Statement, *Israel: Proposed bill seeks to outlaw human rights NGOs based in Israel working on accountability issues in the Occupied Palestinian Territory*, available at:

[http://www.adalah.org/eng/docs/JointStatement\\_Israel.pdf](http://www.adalah.org/eng/docs/JointStatement_Israel.pdf)

<sup>44</sup> An English translation of the bill is available at: <http://www.jnews.org.uk/news/new-bill-seeks-to-outlaw-boycott-both-of-settlements-and-of-israel>

## Question 25

Please provide information with regard to the “loyalty bill” stating that persons wishing to retain Israeli citizenship would have to declare their loyalty to Israel as a Jewish State, which was rejected in May 2009 by the ministerial legislative committee.

The *Citizenship Law (Amendment – Declaration of Loyalty) Bill – 2009*<sup>45</sup>, or “loyalty bill,” introduced on 1 April 2009, remains pending and has not yet been put before the Knesset plenum for a preliminary reading. The bill seeks to impose the following pledge of loyalty on anyone receiving Israeli citizenship (by birth or naturalization) and on any citizen or resident applying for a national identity card, received at the age of 16 and which it is obligatory to carry on one’s person: “I pledge to be loyal to the State of Israel as a Jewish and Zionist state, to its values and to its flag, and to serve the state in any way asked of me in military service as required by law.” It would also authorize the Interior Minister to revoke the citizenship of Israeli citizens who do not fulfill military or alternative national service. The majority of Palestinian citizens of Israel are exempt from and do not perform military or national service for historical and political reasons.

## Question 27

Please provide information on: (a) the measures taken to revoke the *Citizenship and Entry into Israel Law (2003)* (temporary order) as recommended by the Committee in 2003; and (b) measures and practices with regard to family reunification concerning Israel and the OPT. What measures are taken by the State party to reinstate the possibility of family visits for Palestinian prisoners from Gaza?

On 2 March 2010, an expanded 11-Justice panel of the Supreme Court of Israel held a hearing on petitions submitted by Adalah, ACRI, HaMoked and former MK Zahava Galon against *the Citizenship and Entry into Israel Law (Temporary Order) – 2003*. The law is currently valid until at least July 2010, and in the coming weeks the issue of its further extension will be discussed by the government.

The law bans Palestinians from the OPT who marry citizens of Israel from obtaining any legal status in Israel. It therefore prevents Palestinian citizens of the state, since it is overwhelmingly Palestinian citizens who marry Palestinians from the OPT, from realizing their right to a family life in Israel. In March 2007, the Knesset 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. Although the law was enacted as a “temporary order”, it has now been extended numerous times since 2003, in disregard of the Committee’s previous concerns and its call for Israel to revoke the law (para. 21 of the Committee’s 2003 Concluding Observations on Israel).

At the hearing 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 the security of the state.”<sup>46</sup>

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<sup>45</sup> Bill no. P/18/102.

<sup>46</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, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=14\\_3\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=14_3_10)

The state submitted its response to the court on 13 April 2010.<sup>47</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 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 doubts on these general claims. Following a request for 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 these two persons had already completed their sentences, which suggests that the offenses were relatively minor.

Given the numbers involved, the law is sweeping in its application and completely disproportionate to the alleged security reasons cited by Israel to justify its enactment. In addition, according to the state’s response, between August 2005 and April 2010, 4,118 Palestinians had entered Israel through family unification, equating to around just 800 persons per year.<sup>48</sup> 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.

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 17, 23, 24, 26 and 27 of the ICCPR.

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<sup>47</sup> The state’s response is on file with Adalah.

<sup>48</sup> Palestinian residents of the OPT married to citizens of Israel may apply for temporary residence permits in restricted cases, according to amendments made to the law in July 2005. However, even where the stringent conditions for family unification are met, the maximum that can be obtained by a non-Israeli spouse is a short-term residency permit, such as a three-month tourist visa, that does not allow the non-citizen spouse to work or drive and denies them the protection of health insurance or social security. Families therefore remain under enormous pressure.



**Supplementary Issue:**  
**The criminalization of the legitimate activities of the Arab political and  
civil society leadership in Israel**

In response to a severe and sustained attack that is being waged on the political rights and freedoms of the Arab political and civil society leadership in Israel, Adalah wishes to raise this additional issue before the Committee.<sup>49</sup>

*1. The Indictment of MK Mohammed Barakeh (Head of the Democratic Front for Peace and Equality, “al-Jabha” or “Hadash”)*

MK Barakeh has been a member of parliament 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. Often soldiers turn violent against the demonstrators, and in some cases MK Barakeh was assaulted and submitted complaints to the authorities, which were subsequently closed.<sup>50</sup>

The Inter-Parliamentary Union (IPU) Committee on the Human Rights of Parliamentarians affirmed in March 2010 that leading and participating in demonstrations is 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 were not investigated. It emphasized that it would examine the possibility of sending an international observer to the relevant proceedings.<sup>51</sup>

The case is being heard by the Magistrates’ Court in Tel Aviv.<sup>52</sup> In April 2010, the court summarily rejected Adalah’s motion challenging the illegality of joining together four different charges into a single indictment.<sup>53</sup> Adalah argued that the joinder stood to substantially harm the legal defense of MK Barakeh and undermine his parliamentary immunity rights, as well as his right to a fair trial. In Adalah will shortly file a petition to the Israeli Supreme Court to sever the offenses.

*2. The Indictment of MK Said Naffa – National Democratic Assembly-Balad*

MK Naffaa has been an MK since April 2007. On 26 January 2010, the Knesset House Committee voted to lift his parliamentary immunity 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

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<sup>49</sup> Adalah is currently representing MK Mohammed Barakeh, MK Said Naffaa, the four Arab leaders detained in connection with the Gaza Freedom Flotilla, Ameer Makhoul and Dr. Omar Saeed. Adalah is also advising MK Haneen Zoubi.

<sup>50</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, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=05\\_04\\_29](http://www.adalah.org/eng/pressreleases/pr.php?file=05_04_29)

<sup>51</sup> Inter-Parliamentary Union (IPU) communication, on file with Adalah.

<sup>52</sup> Crim. File 12318-12/09, *The State of Israel v. Mohammed Barakeh* (case pending).

<sup>53</sup> See Adalah, *Tel Aviv Court Rejects Defense Motion concerning Illegality of Joining Four Different Charges in One Indictment against Arab MK Mohammed Barakeh*, 21 April 2010, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=21\\_04\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=21_04_10).

law.<sup>54</sup> Three years ago, MK Naffaa 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 Naffaa argues that the clerics were unfairly and arbitrarily denied their religious freedom. MK Naffaa is also accused of contact with a foreign agent. According to one of his assistants, who was interrogated by the GSS, MK Naffaa discussed the feud between Fatah and Hamas with Talal Naji, a leader of the Popular Front for the Liberation of Palestine based in Damascus, and attempted to meet with Khaled Meshal, head of Hamas in Damascus. MK Naffaa denies meeting either man.

MK Naffaa 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 Naffaa at a hearing held before the AG and senior officials from the State Prosecutor's Office in March 2009. The State Prosecutor recently informed Adalah that an indictment against MK Naffaa would be submitted to court.

### 3. *The Detention of Four Arab leaders: The Gaza Freedom Flotilla*

On 31 May 2010, four Palestinian Arab citizens of Israel were arrested from the *Mavi Marmara*: three political leaders – Mr. Muhammed Zeidan, the Chairman of the High Follow-up Committee for Arab Citizens of Israel; Sheikh Raed Salah, Head of the Islamic Movement in Israel; and Sheikh Hamad Abu Daabes, Head of the Islamic Movement in Israel (southern branch) – and Ms. Lubna Masarwa of the Free Gaza Movement and Al Quds University.<sup>55</sup>

The police prosecutor asked to remand the four, arguing that a range of criminal offenses could apply, including conspiracy to commit an offense, and possession and use of weapons. He further contended that it was the state's policy to detain citizens of Israel who had participated in the flotilla. The prosecution furnished no evidence to demonstrate that any of these four individuals had participated in or bore responsibility for any attack on Israeli naval soldiers. The legal defense team made a range of additional arguments, including that since the incident took place in international waters the Israeli courts had no jurisdiction to hear the case, and that the detention was prima facie illegal, as the law requires those arrested to be brought before court within 24 hours whereas they were held for more than 30 hours before the detention motion was submitted to court. The four were released on 3 June 2010 under restrictive conditions: a week-long house arrest, a 45-day foreign travel ban, and the posting of a NIS 150,000 bond.<sup>56</sup> To date, no indictment has been filed against them.

### 4. *Attempts to Revoke the Parliamentary Privileges of MK Haneen Zoabi*

MK Haneen Zoabi was elected to the Knesset in 2009. She is the first woman to be elected to the Knesset as a representative of an Arab political party. She participated in the Gaza Freedom Flotilla and was a passenger on the *Mavi Marmara*. As MK Zoabi enjoys parliamentary immunity, she was

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<sup>54</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, available at: [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>55</sup> Adalah and the Meezaan Center for Human Rights in Nazareth represented the four before the Magistrates' Court in Ashkelon. See Adalah, *Magistrates' Court Orders One Week Remand of Arab Political Leaders who Took Part in the Gaza Freedom Flotilla*, 2 June 2010, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=02\\_06\\_10\\_2](http://www.adalah.org/eng/pressreleases/pr.php?file=02_06_10_2)

<sup>56</sup> See Adalah, *Magistrates' Court Orders Release of Detained Delegation of Arab Leaders from the Gaza Freedom Flotilla with Restrictive Conditions; Defense Team Examines Possible Appeal*, 3 June 2010 available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=03\\_06\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=03_06_10)

not detained but she was subjected to an extensive interrogation. She was one of the first eyewitnesses to describe what had happened on the boat. Her description of the attacks contradicts the Israeli government's official version of the events<sup>57</sup> and she has called for an international, independent inquiry into the attacks.

On 7 June 2010, the Knesset House Committee voted to revoke MK Zoabi's parliamentary privileges. If approved by the Knesset plenum, she stands to lose her diplomatic passport, any privileges in overseas travel enjoyed by MKs, and the right for the Knesset to cover her legal fees should her immunity be revoked for the purposes of criminal prosecution.

The House Committee's decision followed several stormy sessions in the Knesset<sup>58</sup> during which MK Zoabi was branded by fellow parliamentarians as a "terrorist" and "traitor," and subjected to racist and overtly sexist remarks, as well as physical threats. Various Israeli ministers and MKs have called for the revocation of her Knesset membership, for her to be criminally prosecuted, and even for her Israeli citizenship to be revoked, as proposed by Interior Minister Eli Yishai.<sup>59</sup> She has also received dozens of death threats. No Israeli government official has spoken out in support of her rights to life, liberty and freedom of expression.

##### *5. The arrest and indictment of civil society leader Ameer Makhoul and Dr. Omar Saeed*

On 27 May 2010, the State Prosecution filed indictments against Ameer Makhoul, a civil society leader and human rights defender, the Director of the Arab NGO network Ittijah – The Union of Arab Community-Based Associations, and Dr. Omar Saeed, a medical researcher and political activist. Mr. Makhoul is accused of assistance to the enemy in time of war and aggravated espionage. Dr. Saeed is charged with contact with a foreign agent and the delivery of information to an enemy. Both men vehemently deny the charges. Their arrests and interrogations were undertaken in gross violation of their fundamental due process rights. Prohibition orders were imposed on meeting with lawyers, in the case of Dr. Saeed for 16 days and in the case of Mr. Makhoul for 12 days following their arrest. Total gag orders were placed on the two cases by the court preventing media coverage. Severe interrogation methods were used by the Israel Security Agency (ISA) against Mr. Makhoul, which caused him both psychological and physical harm. For the first three weeks of his detention, including the entire interrogation period, the ISA rejected requests for Mr. Makhoul's medical records and for an independent doctor to examine him. Both men remain in prison. Adalah is part of the legal defense team representing Mr. Makhoul and Dr. Saeed and is gravely concerned over the severe infringements of their rights, which contradict Israeli and international law.<sup>60</sup> Exaggerated accusations in indictments have become common practice in security cases against Arab citizens of Israel, aimed at justifying the complete isolation, gag orders, prohibition on meeting with legal counsel, and the use of illegal methods of interrogation.

It is of vital importance that every citizen has the right and opportunity to take part in the conduct of public affairs in a country, directly or through freely chosen representatives (article 25). The right to

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<sup>57</sup> See for example: <http://english.aljazeera.net/programmes/rizkhan/2010/06/20106136375951921.html>; and <http://www.israeli-occupation.org/2010-06-13/democracy-now-interviews-haneen-zoabi-video/>

<sup>58</sup> See Knesset members attack on MK Haneen Zoabi, available at: <http://www.youtube.com/watch?v=KBUXZnHb2ig>

<sup>59</sup> See, e.g., "Dangerous Incitement," *Haaretz Editorial*, 7 June 2010, available at: <http://www.haaretz.com/print-edition/opinion/dangerous-incitement-1.294595>

<sup>60</sup> See Adalah's Special Report on Ameer Makhoul and Dr. Omar Saeed, available at: <http://www.adalah.org/eng/political/political.html>

effective political participation and representation is of particular importance for a minority group as it is a key priority in their efforts to ensure equality and non-discrimination as well as their right to language, culture and religion (article 27). It is crucial that the political and civil society leaders of a minority group have the full right and ability to hold and express opinions without interference and to seek, receive and impart information and ideas of all kinds (article 19). These rights may also be exercised as part of the right of peaceful assembly (article 21), and through the right of freedom of association with others (article 22). Adalah urges the Committee to call on Israel to respect and uphold the political rights and freedoms of Arab civil society leaders and MKs, as the elected representatives of the Arab national minority in Israel.

## ANNEX

### **SUGGESTED QUESTIONS FOR THE UN HUMAN RIGHTS COMMITTEE CONSIDERING ISRAEL'S COMPLIANCE WITH THE ICCPR**

#### **The Rights of Palestinian Arab Citizens of Israel**

**Submitted 10 August 2009**

Adalah is pleased to submit this report to the UN Human Rights Committee to assist it in its consideration of Israel's Third Periodic Report of 2008.

#### **1. Equality**

##### *Article 2*

#### **Suggested questions**

Given that a constitutional right to equality for all citizens is not explicitly guaranteed under Israeli law, please explain how the State party ensures compliance with its obligations under the Covenant? Many Israeli laws include the term "Jewish State", "the values of the State as a Jewish State", and/or refer to "Israel's heritage" as a source of law. Why does this not constitute discrimination against non-Jews, in particular the Arab minority?

#### **Background to the questions**

Israel lacks a written constitution or a Basic Law that constitutionally guarantees the right to equality and prohibits discrimination, either direct or indirect. While several ordinary statutes do provide protection for the right of equality for women and people with disabilities,<sup>61</sup> no statute relates to the right to equality for the Palestinian minority 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>62</sup> While some justices of the Supreme Court have interpreted the Basic Law: Human Dignity and Liberty as including the principle of equality,<sup>63</sup> this fundamental right is currently protected by judicial interpretation alone. However, the fundamental importance of the principle of equality requires that it be explicitly guaranteed in the Basic Laws or by statute. The

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<sup>61</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>62</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>63</sup> See, e.g., Justice Aharon Barak's ruling 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."

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.

The current constitutional situation has allowed Israel to enact over 20 laws that are discriminatory on their face, in that they relate only to the rights of Jews in Israel 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>64</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.

## **2. Representation in the civil service**

*Articles 3, 25, 26*

### **Suggested questions**

Based on information obtained, the Committee wishes to reiterate its concern that the proportion of Arab citizens of Israel in the civil service and public sector remains very low and that progress towards improving their participation, especially of Arab women, has been slow.<sup>65</sup> Why, in spite of the 1993 and 2000 amendments to the Civil Service Law (Appointments) – 1959 law and various government decisions does the percentage of Arab citizens in general (6.1%) and Arab women in particular (2%) in the civil service remain far lower than the percentage they make up of the population (around 20%)?

Please provide comprehensive data on the numbers of civil service employees in the various public sector bodies, including ministries, disaggregated according to national belonging and sex. How and when does the State party forecast that fair and proportionate representation in the Israeli civil service in Israel will be achieved for Arab citizens, in line with the Committee's previous recommendation?<sup>66</sup>

Please provide updated information to the Committee on progress towards meeting the targets set out in Government Resolution 2579 in relation to Arab citizens of Israel [State report para. 527]. Does the resolution contain any specific quotas relating to Arab women working in the civil service?

To date, how many/what proportion Arab interns involved in the internship directory aimed at achieving suitable representation in the Ministry of Justice for Arab citizens of Israel have gone on to gain employment in the Ministry of Justice [State report para. 54], and what is the annual budget of the program?

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<sup>64</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>65</sup> Concluding observations of the Human Rights Committee: Israel, 21 August 2003, CCPR/CO/78/ISR, para. 23.

<sup>66</sup> *Ibid.*

Please provide updated information on the implementation of five-year work plans to increase the representation of Arab citizens, inter alia, in all government ministries [State report para. 527] and state the target percentages of Arab employees adopted by each of these plans.

**Background to the questions**

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,” Palestinian citizens of Israel in general remain sorely under-represented in civil service positions. According to Israel’s State report [para. 523], as of December 2007, Arab citizens of Israel made up just 6.1% of all civil service employees. While Israel’s report does not disaggregate the data by sex, in 2006 just 2% of civil service workers were Arab women.<sup>67</sup> Furthermore, over time there has been no or minimal improvement in the representation of Arab citizens in the civil service, in particular with regard to women, who also accounted for 2% of all civil service employees in 2001.<sup>68</sup> These figures seriously call into question the efficacy of the amendment to the Civil Service Law (Appointments) and/or the state’s efforts in assuring its implementation.

In addition, 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. 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. However, these interim targets have consistently been missed, and the representation of Arab citizens, men and women alike, remains low.

Arab representation among the staff of government ministries is correspondingly low and inadequate, including in ministries that have a decisive impact on the lives of Arab citizens, 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>69</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

Moreover, the two ministries with the most Arab employees are the ministries of health and

<sup>67</sup> The Civil Service Commission, “Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service,” 2006 (Hebrew).

<sup>68</sup> Ali Hedar, “The Arab Citizens in the Civil Service,” *Sikkuy Report, Equality and the Integration of the Arab Citizens of Israel 2000-2001*, citing an April 2001 report of the Governmental Companies Authority.

<sup>69</sup> Ali Hedar, “The Arab Citizens in the Civil Service,” *Sikkuy Report, Equality and the Integration of the Arab Citizens of Israel 2000-2001*, citing an April 2001 report of the Governmental Companies Authority.

education; the vast majority of these employees work in Arab towns and villages or mixed cities providing services directly to Arab communities, e.g. as teachers and nurses. Arab professionals are rarely to be found in decision-making positions in the upper echelons of these ministries.

### **3. Representation of the boards of governmental corporations**

*Article 3, 25, 26*

#### **Suggested questions**

The Committee wishes to note its concern over the continuing under-representation of Arab women citizens of Israel on the boards of directors of governmental corporations. According to information received by the Committee, despite the amendment made in 2000 to The Government Corporations Law – 1975 stipulating fair representation to the Arab population on the boards of directors of government corporations, in 2007, Arabs in general accounted for only 8.8% of all sitting directors. Worryingly, in 2007 Arab women citizens of Israel made up just 2% of sitting board members, compared to a figure of close to 32% for Jewish women.<sup>70</sup> Moreover, this figure has remained almost unchanged since 2004, when Palestinian women citizens of Israel accounted for 1.3% of all sitting directors.<sup>71</sup> Please comment on the lack of progress made to date in securing the full implementation of this law with regard to Arab citizens of Israel in general, and Arab women in particular. Please include in the response updated information on the new legislative process cited in the State party's report [para. 528] aimed at “strengthening appropriate representation of workers from different sectors among the different Government Corporations’, i.e.: women, persons with disabilities, Arabs, Druze, Circassian and Ethiopian origin,” to include comparative data on the representation of Arab citizens of Israel, disaggregated by sex.

### **4. Palestinian women citizens of Israel**

*Article 3*

#### **Suggested questions**

Does the State party have any plan for creating incentives for more Arab women to seek political office as Members of the Knesset in order to increase the representation of this sub-group, which is subject compound discrimination on the basis of both their national belonging and sex?

Given the enormous gaps between the numbers of employed Arab women (22.4%) and Jewish women (70.6%) citizens of Israel, and between employed Arab women (22.4%) and Arab men (79.7%), what special measures, in any, is the State party taking to remove the structural obstacles that stand in the way of the labor force participation by Arab citizens of Israel: inter alia, the lack of employment opportunities in Arab towns and villages; the lack of public transportation services to Arab localities; the inaccessibility of state-funded employment centers; and the shortage of state-funded childcare facilities available to Arab families? What funds have been allocated to these measures and what targets have been set for them? What steps are being taken to create new employment opportunities in Arab towns and villages, which, as the State party notes in its report [para. 150], are very limited in non-traditional fields of employment?

To date, how many Arab women citizens of Israel as compared with Jewish women have benefited

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<sup>70</sup> Response received by Adalah from the Government Corporations Authority, dated 8 October 2007.

<sup>71</sup> Telephone interview by Adalah with Mr. Zohar Sher, Deputy Director of the Government Companies Authority on 12 October 2004. According to Mr. Sher, the figures noted are based on a check/report dated 22 September 2004.



from loans for small businesses by the Authority for Small Business? Please provide an update regarding the establishment of the Center for Nurturing Entrepreneurship in the Arab and Bedouin sector referred to in the State party's report [para. 146] and provide its annual budget. How large is the staff of the center and how many beneficiaries does it have the capacity to assist?

The State party's report notes that, "Many Arab women thus attend 'traditional' courses because they are available locally, and are likely to enable them to meet the requirements of local job opportunities, whether they be full or part time" [para. 150]. Aside from 'traditional' courses, what vocational training courses are offered to women living in Arab localities and in what ways do the courses offered in Arab localities differ from those offered in Jewish localities? How many of the total number of training institutions referred to in the State's report [para. 153] are located in Arab towns and villages? How many of the "workshops for growth and working skills' development" referred to in the State's report [para. 156] are held for unemployed Arab and Arab Bedouin women compared to other targeted groups?

Please provide data on the numbers and percentages of Arab women employed in academic positions in Israeli colleges and universities, disaggregated according to type of position and rank. Please detail measures taken, if any, by the State party to create initiatives for Arab citizens in general and Arab women in particular to enter academia, the number of beneficiaries of any relevant programs and the budget allocated to them.

The Committee notes that the section within its discussion of Article 3 on the "Status of Arab women" [paras. 133-156] is limited in scope, and does not provide comparative data on a range of issues raised relating to the equal rights of men and women. Please therefore provide further information.

## **Background to the question**

### *Arab women in the Knesset*

Arab parties currently hold 10% (12 seats) of the total 120 seats available in the Knesset, the Israeli parliament. The 12 Arab parliamentarians include only one Arab woman MK, Haneen Zoabi, who is the first Arab woman ever to have served in the Knesset on behalf of an Arab party.<sup>72</sup> In the history of the Knesset, there have only been two other Palestinian women MKs.<sup>73</sup>

### *Arab women and employment*

According to figures published in January 2008 by the Ministry of Industry, Trade and Labor, in 2006 the percentage of Arab women engaged in the workforce was 22.4%, compared to a parallel figure of 70.6% among Jewish women.<sup>74</sup> In the same year, 79.7% of men classified as "Arabs and others"<sup>75</sup> were employed in the labor force, compared to 83.8% of Jewish men.<sup>76</sup> There are a number of structural obstacles to the entry of Arab women citizens of Israel into the labor force. One of the

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<sup>72</sup> See the website of the Knesset, *Knesset Members by Parliamentary Group*. Available at:

[http://www.knesset.gov.il/mk/eng/mkindex\\_current\\_eng.asp?view=1](http://www.knesset.gov.il/mk/eng/mkindex_current_eng.asp?view=1).

<sup>73</sup> Ms. Hussniya Jabara, who served as an elected representative of the Meretz Party from May 1999, and Ms Nadia Hilou, who served as a as an elected representative of the Labor Party between 2006 and 2009.

<sup>74</sup> The Ministry of Industry, Trade and Labor, *The Status of Employment of Arab Women Between the Ages of 18-65 in 2006*, 29 January 2008 (Hebrew).

<sup>75</sup> Arab Muslims, Druze, Arab Christians and non-Arab Christians.

<sup>76</sup> Adva Center, *Social Gaps in Israel*, updated June 2008.

major obstacles is the limited employment opportunities on offer in Arab towns and villages, coupled with the systematic failure of the state to locate employment-generating industrial zones in Arab communities. Thus, for example, the state budget for 2008 allocated a total sum of NIS 215 million for developing industrial zones, of which just NIS 10 million was earmarked for Arab towns and villages, far less than the amount of NIS 25 million that the Ministry of Industry, Trade and Labor committed to allocate in previous years.<sup>77</sup>

In addition, Arab citizens of Israel often have to travel long distances to reach employment offices, few of which are located in Arab towns and villages.<sup>78</sup> Aggravating the problem is the absence of frequent public transportation from many Arab towns and villages to central cities, which makes it more difficult, particularly for women and young people who do not own cars, to work elsewhere. Most bus and train lines do not enter Arab villages at all, or enter them very infrequently. The lack of adequate public transportation is in part the responsibility of the state, as the major public transportation system (Egged) is majority-owned by the government.<sup>79</sup> In addition, there is a shortage of state-run day care centers for Palestinian children in Israel: only 30 day care centers cater to Arab children in the country, and as a result just 3.7% of Arab children under the age of four are enrolled in state-run day care centers, as opposed to 16.3% of Jewish children in the same age group.<sup>80</sup> The lack of suitable day care facilities reduces the participation of Arab citizens, and in particular Arab women, in the labor force.

#### *Arab women and vocational training*

State funding for vocational training for adults has been reduced drastically over recent years, from NIS 230,400,000 in 2000 to NIS 92,470,000 in 2006, i.e. a cut of approximately 60%.<sup>81</sup> Even prior to these cuts, the participation of Arab women in vocational training courses was low, partly because of inaccessibility and the unavailability of training institutes close to their places of residence. Moreover, Arab women participants are often concentrated in "traditional" and "pre-employment" courses that offer limited and basic skills. Thus, for example, of the 235 people who attended a vocational training course for adults held in 2004 by the Ministry of Industry, Trade and Labor entitled "inside factory training" only one was an Arab woman (0.4%); similarly, only 15 Arab women were among the 766 participants of a training course entitled "shift in academic field" (2%), while a total of 438 women attended the course (57%).<sup>82</sup>

#### *Arab women in academia*

Accurate and precise data on the numbers of Arab women working in Israeli academia are not

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<sup>77</sup> Mossawa, *The Arab Population in the 2008 State Budget*, May 2008.

<sup>78</sup> In 2005, for example, the Ministry of Industry, Trade and Labor rescinded its decision to close down an employment office located in the Arab town of Kufr Kana in the north of Israel only after Adalah and The Laborer's Voice (Sawt el-Amel) petitioned the Supreme Court to demand that the office, which serves approximately 71,000 Palestinian citizens of Israel in the area, including over 4,000 job-seekers, was kept open. H.C. 8249/04, *Ziad Matar et. al. vs. Ministry of Industry, Trade and Labor*.

<sup>79</sup> "Since the establishment of the state the Arab sector has suffered from a low level of public transport services. The reasons for this are many and varied, but probably indicate a double-standard toward the Arab sector in general, which is probably also the main reason for discrimination in transportation." Asidon Yoram, "A gap of accessibility and mobility in Israeli society, and the social implications of change," *Nature and Environmental Resource Studies*, The University of Haifa, Department of Nature and Environmental Resource Management, September 2004.

<sup>80</sup> Orly Almagor-Lotan, *Day Care and Family Home Care Centers in the Arab Sector*, The Knesset Center for Research and Information, 7 July 2008 (Hebrew).

<sup>81</sup> The ADVA Center, *Vocational Training – OUT?* Position Paper, February 2006 (Hebrew).

<sup>82</sup> *Ibid.*

readily available. The State party states in its report [para. 145] that “11.5% of the 45,000 working Arab women are employed in academia and academic-related fields.” This figure is broad and general, and obscures the fact that Arab academics in general are sorely represented in Israel’s colleges and universities: in 2007, Arabs, men and women, accounted for as few as 1.2% of all academics employed by Israeli universities and colleges in tenure track positions.<sup>83</sup> While approximately 5,000 Arab women citizens of Israel hold academic degrees, only a handful are working as tenured academics in Israel’s universities and colleges.<sup>84</sup>

## **5. General and infant mortality rates**

### *Article 6*

#### **Suggested questions**

Please explain the reasons why infant mortality rates among Arab Bedouin citizens of Israel remain extremely high and, according to data received by the Committee, *rose* between 2003 and 2005. What, if any, special measures is the state taking to decrease the rate of infant mortality that results from consanguineous (inter-relative) marriage? Please provide additional information on measures taken to address the discrepancies between the infant mortality rates and life expectancy rates of Israel’s Jewish, Arab and Arab Bedouin populations.

#### **Background to the questions**

According to data provided by the State of Israel, in 2005, infant mortality rates within the Jewish majority in Israel stood at 3.2 per 1,000 live births. While infant mortality rates are falling in Israel as a whole over time, in 2005 the infant mortality rate within the Arab minority was close to double that among the Jewish majority, at 6.03 per 1,000 live births [State report table 7]. In the Naqab among the Arab Bedouin population, the rate is even higher, at 15.0 per 1,000 live births [State report para. 571]. While, as the State party indicates in its report [para. 164] that Israel’s overall infant mortality rate continues to decrease, the data also indicates an *upward trend* in infant mortality rates among the Palestinian Bedouin population in the Naqab, which stood at 13.3 deaths per 1,000 live births in 2003.<sup>85</sup>

Arab citizens of Israel can expect to live shorter lives than Jewish citizens. According to government statistics, in 2007 the average life expectancy of Arab women in Israel was 78.8 years, 4.1 fewer years than the figure for Jewish women (82.9 years). Similarly, in 2007 Arab men in Israel had an average life expectancy of 75.3 years, 4.2 years fewer than the figure for Jewish men (79.5 years).<sup>86</sup> While life expectancies for all are rising over time, the gaps between Arabs and Jews in growing.<sup>87</sup> Accordingly, mortality rates among the Arab minority outstrip those among Jews in Israel: in 2006, the standardized rate of mortality among Arab men in Israel was 6.6 deaths per 1,000 persons, and 5.3 per 1,000 persons among Arab women; the corresponding figure among Jewish men during the same

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<sup>83</sup> Adel Manna, *Kitab al-Mustaqbali al Arabi fe Israel*, 2<sup>nd</sup> Annual Book of Van Leer, 2007 (Arabic).

<sup>84</sup> Telephone interview with Dr. Adel Manna, Van Leer Institute, 9 August 2009. These academics include Dr. Nadera Kevorkian (The Hebrew University of Jerusalem), Dr. Mona Kasabri (The Hebrew University of Jerusalem); Dr. Fadia Nassar (Tel Aviv University) and Dr. Khawla Abu Baker (Emek Yisrael College).

<sup>85</sup> I. Shoham Vardi, *The Death of Bedouin Babies in the Negev, 1990-2002*, Beer Sheva: Ben-Gurion University; unpublished conference paper (Hebrew). See also, Physicians for Human Rights-Israel, *No Man’s Land: Health in the Unrecognized Villages of the Negev*, July 2003. Available at:

[http://www.phr.org.il/phr/files/articlefile\\_1163421247181.pdf](http://www.phr.org.il/phr/files/articlefile_1163421247181.pdf).

<sup>86</sup> CBS, Statistical Abstract of Israel 2008, No. 59, Table 3.24.

<sup>87</sup> In 1996, by comparison, the gap between Arab and Jewish women was lower, at 3.1 years, and was 1.5 years between Arab and Jewish men. CBS, Statistical Abstract of Israel 2008, No. 59, Table 3.24.

year was significantly lower, at 4.7 per 1,000 persons, and for Jewish women 3.3 per 1,000 persons.<sup>88</sup> These gaps become particularly wide after the age of 60. For example, in 2006 the mortality rate among Jewish men aged 60-64 was almost half the figure among Arab men (8.7 versus 16.1 deaths per 1,000 persons).<sup>89</sup>

## **6. Access to clean drinking water in the Naqab**

### *Article 6*

#### **Suggested questions**

Please provide data on the numbers and location of any Arab Bedouin communities located in Israel whose homes are not connected to the state's water-grid. Please also comment on claims that the state 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 Bedouin townships.

#### **Background to the questions**

In the Naqab, Israel is deliberately not providing thousands of Palestinian 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>90</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>91</sup> The approximately 40 unrecognized Arab Bedouin villages in the Naqab, which are home to around 60,000 people, have neither local councils or belong to other local governing bodies, and receive little-to-no basic services, including electricity, water, telephone lines, or education or health facilities. They have no official status, and are excluded by the state from planning and government maps. Access drinking water is a basic right derived from the right to life, and 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 the infant mortality rates among the Arab Bedouin population in the Naqab.<sup>92</sup>

In violation of its obligations under the Covenant, 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 Bedouin townships. For example, in a letter dated 19 October 2004 regarding the unrecognized village of Umm al-Hieran, the Bedouin Development Authority (the state body responsible that recommends to the water commissioner whether requests for connection should be approved) acknowledged that the current

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<sup>88</sup> CBS, Statistical Abstract of Israel 2008, No. 59, Table 3.27.

<sup>89</sup> Ibid.

<sup>90</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>91</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, Commissioned by Adalah (Hebrew).

<sup>92</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).

arrangements for obtaining drinking water were inadequate, but stated that the dwellings were illegal and that access to drinking water and other utilities would only be made available if the villagers relocated to the recognized town of Hura.<sup>93</sup>

## **7. Police impunity**

*Articles 7, 2, 6*

### **Suggested questions**

According to information provided in the State party's report (Table 10), the Committee notes that, out of 1,273 complaints investigated by the Israeli police into allegations of unlawful use of force during 2004, 49 resulted in criminal proceedings (3.8%), similar or slightly down from the figures in previous years. The Committee requests updated information on the number convictions obtained and the penalties imposed. Please comment on information before the Committee that a high number of complaints filed by Arab citizens against police officers are not properly and effectively investigated, and that the Ministry of Justice's Police Investigations Unit (Mahash) lacks independence.

The Committee is deeply concerned by the lack of indictments filed against police officers or commanders accused of the killing of 13 unarmed Palestinian citizens of Israel and injuring hundreds more during the October 2000 protest demonstrations in Israel.<sup>94</sup> Please provide the Committee with the reasons for the Attorney General's decision of 27 January 2008 to close the investigation files into the killings and injuries, and detail the measures being taken to provide an effective remedy for the victims and their families, and to ensure accountability for these alleged crimes.

## **8. The revocation of citizenship**

*Article 16, 24*

### **Suggested questions**

The Committee is concerned about the enactment of Citizenship Law (Amendment No. 9) (Authority for Revoking Citizenship), passed by the Knesset on 28 July 2008. According to information brought before the Committee, the new law allows for the revocation of citizenship on the grounds of "breach of trust" or disloyalty against the state, a term that is defined broadly and even reportedly includes the act of residing in one of nine Arab and Muslim states which are listed by the law, alongside the Gaza Strip.<sup>95</sup> The Committee is further concerned that the law targets Palestinian citizens of Israel, as they make up the vast majority of Israeli citizens who would reside in Arab and/or Muslim states, and that under the law, citizenship can be revoked for an alleged "breach of trust" without requiring a criminal conviction. To date, have there been any cases in which the citizenship of an Israeli citizen – Jewish or Arab - was revoked under the 2008 law? Please provide additional information on the mechanisms for revoking citizenship under this law,

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<sup>93</sup> Letter on file with Adalah. For more information, see also The Negev Coexistence Forum for Civil Equality, *The Arab-Bedouins of the Naqab-Negev Desert in Israel, Shadow Report to the UN Committee on the Elimination of Racial Discrimination (CERD)*, May 2006. Available at: [http://www.phr.org.il/phr/files/articlefile\\_1172399200466.pdf](http://www.phr.org.il/phr/files/articlefile_1172399200466.pdf).

<sup>94</sup> The Committee on the Elimination of Racial Discrimination (CERD) expressed similar concerns in its Concluding Observations of 14 June 2007, CERD/C/ISR/CO/13, para. 30. Prof. Philip Alston, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions criticized the AG's decision in the October 2000 killings cases in his report of May 2008 to the UN HR Council. The SR concluded that the AG's decision not to issue indictments "would appear to fall short of international standards." <http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A-HRC-8-3.doc>

<sup>95</sup> The states currently enumerated in the law are Lebanon Syria, Iraq, Iran, Libya, Yemen, Afghanistan, Sudan and Pakistan.

and the remedies that are available in such cases. How does the State party ensure that the revocation of citizenship of Israeli citizens is in conformity with the Covenant, and in particular article 24?

## **9. The Citizenship and Entry into Israel Law**

*Articles 17, 23, 24, 26, 27*

### **Suggested questions**

In light of the Committee's recommendation in 2003 that the State party revoke the Citizenship and Entry into Israel Law (Temporary Order) – 2003,<sup>96</sup> please comment on the recent re-extension of the validity of the law for a further year until 31 July 2010 and whether the State party intends to turn the law into a permanent law. How does the State party reconcile the blanket ban on family unification between Israeli citizens and residents of the West Bank,<sup>97</sup> Gaza Strip, Syria, Lebanon, Iraq or Iran with its obligations under the Covenant, in particular articles 17, 23, 24, 26 and 27? How many individuals from the Occupied Palestinian Territory (OPT), Syria, Lebanon, Iraq or Iran who received status/citizenship in Israel through family unification have been indicted and/or convicted of security-related offenses? Please provide details. Given that the Ministry of Interior's "gradual process" of naturalization policy provides for many security checks over long period time, why is it an inadequate means of dealing with family unification requests and security concerns? Since the enactment of the Citizenship and Entry into Israel Law (2003), how many individuals subject to the law have requested status/citizenship in Israel through the family unification process? How many individuals were approved and actually received status, and how many individuals were rejected? How many Palestinians from the West Bank currently have applications for status via family unification pending with the Ministry of Interior?

### **Background to the questions**

On 27 July 2009, the Knesset voted to extend the validity of the Citizenship and Entry into Israel Law (Temporary Order) – 2003 for another year to 31 July 2010, the ninth extension of the law to date. The law, first enacted in July 2003, denies Palestinian citizens of Israel the right to acquire residency or citizenship status in Israel for their Palestinian spouses from the OPT, solely on the basis of their nationality. The law is sweeping in its application and totally disproportionate to the alleged security reasons cited by Israel to justify its enactment. Thousands of families are adversely affected by the law. In May 2006, a 6-5 majority of the Supreme Court decided to uphold the law.<sup>98</sup>

Amendments made to the law in 2007 expanded the ban to spouses from Syria, Lebanon, Iraq and Iran, defined under Israeli law as "enemy states," and "anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out."<sup>99</sup> The law flagrantly discriminates against Palestinian citizens of Israel, who are most likely to have non-citizen Palestinian/Arab/Muslim spouses. At the same time, however, the "gradual process" of

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<sup>96</sup> CCPR/CO/78/ISR, par.21.

<sup>97</sup> Palestinian residents of the OPT married to citizens of Israel may apply for temporary residence permits in restricted cases, according to amendments made to the law in July 2005. However, even where the stringent conditions for family unification are met, the maximum that can be obtained by a non-Israeli spouse is a short-term residency permit that does not allow the non-citizen spouse to work or drive and denies them the protection of health insurance or social security. Families therefore remain under enormous pressure.

<sup>98</sup> H.C. 7053/03, *Adalah, et al. v. Ministry of Interior, et al.* (petition rejected 14 May 2006).

<sup>99</sup> Petitions filed to the Supreme Court of Israel challenging the constitutionality of the law, including a petition submitted by Adalah, remain pending. H.C. 830/07, *Adalah v. The Minister of the Interior, et al.*

naturalization for residency and citizenship status in Israel for all other “foreign spouses” remains unchanged. The ban on family unification 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 17, 23, 24, 26 and 27 of the Covenant. Amid ongoing international condemnation at the repeated extensions of the law's validity, other UN treaty bodies have also criticized and called on Israel to revoke the Citizenship and Entry into Israel Law.<sup>100</sup>

## **10. Home demolitions and forced evacuations**

*Articles 17, 12, 26, 7*

### **Suggested questions**

Please provide information on the reasons why Israel does not officially recognize the unrecognized Arab Bedouin villages, which either pre-date the establishment of the state in 1948 or to which inhabitants were forced to relocate after being expelled from their original villages? What processes are in place for the resolution of the long-running land disputes between Arab Bedouin citizens and the state? In what circumstances does the State party decide to demolish a house or evacuate a village, and by whom is the decision made? How many homes have been demolished since 2003 and for what reason? Please comment on plans to evacuate residents from the unrecognized villages. How are the owners and/or residents of the demolished houses / evacuated villages compensated?

### **Background to the questions**

According to the Israeli Committee Against House Demolitions (ICAHN), between 2000 and 2007, at least 3,084 Palestinian homes were destroyed in Israel, the majority belonging to Arab Bedouin living in the unrecognized villages in the Naqab (Negev).<sup>101</sup> While Israel's report does not discuss the issue of home demolitions in the Naqab, the demolition of homes is one of the tools used by Israel to evacuate the unrecognized villages and concentrate the Arab Bedouin in the Naqab into the over-crowded and impoverished townships that have been recognized by the state. Most of the houses are demolished on the pretext of Arab Bedouin violations of land and planning laws.<sup>102</sup>

Palestinian Arab Bedouin in the Naqab number close to 140,000 people, or 14% of the total population of the Naqab.<sup>103</sup> Around 60,000 Arab Bedouin in the Naqab live in around 40 unrecognized Arab villages throughout the Naqab, referred to by the state in its report as “illegal villages.” With no official recognition or status, these villages are excluded from state planning and government maps, have neither local councils or belong to other local governing bodies, and receive

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<sup>100</sup> CERD 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); CEDAW in its Concluding Observations of 2005, paras. 33-34 (CEDAW/C/ISR/CO/3).

<sup>101</sup> The Israeli Committee Against House Demolitions, telephone interview held on 21 July 2009.

<sup>102</sup> Human Rights Watch, “Off the Map – Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages,” 30 March 2008. This 130-page report documents how discriminatory Israeli laws and practices force tens of thousands of Bedouin in the south of Israel to live in “unrecognized shanty towns where they are under constant threat of seeing their homes demolished and their communities torn apart. Available at: <http://www.hrw.org/en/reports/2008/03/30/map-0>.

<sup>103</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.

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>104</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>105</sup> and concentrate the Arab Bedouin in the Naqab into the over-crowded and impoverished townships, and 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, and constitute a violation of articles 17, 12, 26 and 7 of the Covenant.

## **11. Freedom of religion**

*Articles 18, 27*

### **Suggested questions**

Please comment on the recent Supreme Court decision denying demands by religious leaders for Muslim holy sites located in Israel to be afforded legal protection under the Protection of Holy Sites Law – 1967. How does the State reconcile the fact that the law has only been used to declare 135 Jewish holy sites as such, despite the law’s applicability to all holy sites? How is Israel guaranteeing the preservation and protection of non-Jewish holy sites and access to them for their respective local and international religious communities? Please further indicate whether the Minister of Religious Services (formerly Affairs) intends to set forth regulations in relation to holy sites of both the Jewish and non-Jewish populations of Israel.

### **Background to the questions**

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>106</sup> Around 135 sacred places have been declared as holy sites, all of which are Jewish.<sup>107</sup> 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>108</sup>

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<sup>104</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>105</sup> See, “Adalah Demands that Court Prevent the Expulsion of 1,000 Arab Bedouin from their Homes and the Destruction of their Village in the Naqab in Israel,” *Adalah’s Newsletter*, Volume 54, November 2008.

<sup>106</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 formed 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 16 March 2009).

<sup>107</sup> A list of the sites in Hebrew is available at: [http://www.religions.gov.il/list\\_holy\\_places.htm#top](http://www.religions.gov.il/list_holy_places.htm#top).

<sup>108</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>.



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 in many instances has played an active role in their desecration.

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.”

## **12. Police brutality at lawful demonstrations by Arab citizens**

*Articles 21, 19, 25, 7*

### **Suggested questions**

The Committee is concerned that the excessive use of force by police and security forces in breaking up demonstrations, including demonstrations for which official permission was obtained in advanced, has the effect of discouraging Arab citizens of Israel from exercising their right to freedom of assembly and stifling freedom of opinion and expression. Please comment on claims that the Israeli security forces follow different and more violent rules of engagement when dealing with Arab demonstrators, citizens of Israel than Jewish protestors. With respect to demonstrations undertaken in Israel, please provide information on the number of minors detained, the conditions of their detention, and the length of detention, disaggregated for Arab and Jewish minors.

### **Background to the questions**

Although Israel’s State report makes no mention of demonstrations held by Arab citizens of Israel in its discussion of demonstrations (paras. 410-412), the Israeli security forces, including special police forces, frequently resort to brutal and disproportionate means of dispersing such demonstrations. Arab citizens of Israel often hold opinions that differ from those held by mainstream Jewish Israeli society, and in particular on the emotive subject of Israel’s policies towards Arab states and its military incursions into the OPT. As a result, demonstrations against Israel’s official policies are often seen as extremely provocative and dissent by Palestinian citizens, even in the form of peaceful demonstrations, is forcefully clamped down on. The targets of disproportionate force by the security forces include minors.

### *Protesting against the Israeli Military Attacks on Gaza*

The Israeli police and security forces detained 715 individuals from Israel during demonstrations against “Operation Cast Lead” against Gaza of 27 December 2008 to 18 January 2009, the vast

majority of whom were Palestinian citizens of Israel.<sup>109</sup> 34% of these detainees were minors. Of the 203 persons who were detained in custody until the conclusion of proceedings against them, 54% were minors.<sup>110</sup> Many instances of police violence against unarmed demonstrators were also documented during the clamp-down on demonstrations. In the Arab village of Kufr Kanna, for example, incidents were recorded of armed police officers used heavy-handed tactics against demonstrators, including striking them on the head and extremities without first attempting to communicate with them, spraying tear gas at protestors' faces, dragging individual protestors away and beating them with arms, helmets and metal batons.<sup>111</sup> The police then subjected protestors to insults and further beatings while transporting them to police stations, where affidavits reveal that detainees faced a variety of brutal acts. Some detainees were kicked, punched and spat on upon their arrival, handcuffed using plastic ties, kicked in the face and genital areas, slapped in the face pulled by the ears, had lit cigarettes stubbed out on their bodies, and subjected to a barrage of insults.<sup>112</sup>

During and after "Operation Cast Lead", the Israel Security Agency demanded that dozens of Arab political leaders and activists in Israel meet with the ISA for investigations. At these meetings, ISA investigators threatened that these leaders would be held criminally accountable for any legal violation by any member of their political party or extra-parliamentary movement.<sup>113</sup> The GSS investigators asked the leaders to convey these instructions to the party activists and ordered them to prevent the activists from committing any breach of public order. Such threats constitute a deliberate attempt to infringe rights of Arab citizens of Israel to organize, demonstrate and express their political opinion and to stifle political opposition.

### *The March for the Right of Return*

On 8 May 2008, the Association for the Defense of the Rights of the Internally Displaced in Israel (ADRID) organized the annual "March for the Right of Return" on the lands of the destroyed Arab village of Safouriya in the north of Israel. Around 15,000 people participated in the march, including women, men, children and the elderly. The march was held according to the conditions of the permit granted to the organizers by the police. Nevertheless, after the organizers responded to the police request and moved the path of the march further away from the main road, the police allowed right-wing demonstrators to hold a counter-protest at the roadside. As the participants were returning to their cars following the march, right-wing demonstrators shouted insults against the marchers, who shouted back in return. When they started to walk away, as they were asked to by Arab Members of Knesset and leading political activists, they were attacked violently by special police, who pushed them large number of them to the side of the road. The police then began to fire

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<sup>109</sup> Adalah, "Forbidden Protests", publication forthcoming 2009. According to a poll conducted during the military attacks by the *Haaretz* newspaper, despite pictures from Gaza depicting massive destruction and a large number of wounded and killed, including women and children, 82% of the Israeli public believed that Israel had not "gone too far" in the attacks. *Haaretz*, "Poll shows most Israelis back IDF action in Gaza," 15 January 2009.

<sup>110</sup> Ibid.

<sup>111</sup> Meezaan Center for Human Rights (Nazareth, Israel), Report on the Anti-Gaza War Demonstrations, 2009 (Arabic). Available at: <http://www.meezaan.org/1/news-54.html>. The report contains photographic evidence of the injuries sustained by demonstrators.

<sup>112</sup> Ibid.

<sup>113</sup> Adalah sent an urgent letter to the AG demanding that he prohibit the GSS from making these threats, arguing that they infringed the right of Arab citizens to organize, demonstrate and express their opinion and that they constitute an attempt by the GSS to interfere in Arab political activities in Israel. For more information see, Adalah, "Adalah to AG: Summoning Political Activists to GSS Investigation is an Attempt to Frighten Them from Participating in Demonstrations of Solidarity with Gaza," 2 January 2009. Available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_1\\_2\\_1](http://www.adalah.org/eng/pressreleases/pr.php?file=09_1_2_1).

tear gas and sound grenades in the direction of the demonstrators, a few of whom responded by throwing stones in the direction of the police. The police also assaulted photographers who attempted to document the brutal police violence, and arrested and detained some of them.<sup>114</sup>

### **13. Education**

#### *Article 24*

#### **Suggested questions**

Please provide information about the financial resources (budget) allocated by the Ministry of Education to each Arab student as compared to each Jewish student in Israel. Please provide statistics on how many educational professionals trained to address the problem of children dropping out school are funded by the state to work in the Arab education system compared to the Jewish educational sector?

In 2006, the Supreme Court of Israel issued a landmark ruling on a petition submitted by Adalah that voided a government decision to grant preferential status to certain regions of the country (“National Priority Areas”) affording them substantial state funding, and in particular for education.<sup>115</sup> The court struck down this decision because it discriminated against Arab citizens of Israel. According to information obtained by the Committee, the state has failed to implement the court’s decision and is continuing to distribute benefits for education on the basis of criteria that discriminate against Arab citizens of Israel. Please comment.

Given the relatively low numbers of Arab students enrolled in universities and colleges in Israel, what affirmative action measures, if any, is Israel taking to increase university admission among Arab citizens of the state, and what resources are allocated to any such programs?

#### **Background to the questions**

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. Israel does not regularly release official data detailing how much it spends in total on each Palestinian and Jewish student, and there are no separate lines in the state budget for Arab education.<sup>116</sup> However, state statistics published in 2004 reveal that for the academic year 2000-2001 public investment in Arab schools equaled an average of NIS 534 per

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<sup>114</sup> Adalah represented several detainees in proceedings before the Israeli courts. For more information, see Adalah, *Police Violence against Participants at the Right of Return March in Safouriya in the North of Israel held to Commemorate the Sixtieth Year of the Nakba*, May 2008. Available at: <http://www.adalah.org/newsletter/eng/may08/7.php>.

<sup>115</sup> H.C. 2773/98 and H.C. 11163/03, *The High Follow-up Committee for the Arab Citizens in Israel, et. al. v. The Prime Minister of Israel* (petition accepted 27 February 2006). See also Adalah, “Supreme Court Gives State until May 2009 to Cancel ‘National Priority Areas,’” 24 November 2008, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=08\\_11\\_24](http://www.adalah.org/eng/pressreleases/pr.php?file=08_11_24)

<sup>116</sup> The state budget for education is structured in such a way as to prevent analysis of exactly how much funding Arab education receives. The budget is broken down into 20 general articles, of which only one includes a breakdown of spending on Arab and Jewish education, namely the Pedagogy Administration, the executive arm of the MOE. The Pedagogy Administration allocated 4% of its budget to Arab education in 2006 and 3% in 2007. In addition, in line with the State Budget for 2006, drawn up by the MOE, just 1.5% of the state funds allocated to NGOs working in the field of education were allocated to NGOs providing educational services to Arab children and students. Source: The State Budget, 2006 and 2007.

Arab student, compared to NIS 1,779 per Jewish student or three times more.<sup>117</sup> This under-funding is manifested in many areas, including the poor infrastructure and facilities characteristic of Arab schools and relative overcrowding: according to the Central Bureau of Statistics, there is an average class size of 26 pupils per class in Jewish schools compared to 30 pupils in Arab schools.<sup>118</sup>

One result of under-investment by the state in Arab education is the higher rate of dropping-out rates among Arab citizens of Israel: the national average rate at which pupils dropped out of the education system in 2006-2008 was 7.2% among Arab pupils in grades 9-12, almost double the figure among Jewish pupils, at 3.7%.<sup>119</sup> The drop-out rate is particularly alarming among the Arab Bedouin in the Naqab, at a rate as high as 70% overall.<sup>120</sup> Consequently, relatively few Arab children go on to higher education. Arab students are dramatically under-represented in Israel's institutes of higher education, accounting for just 11.2% of all first degree students. This proportion has an inverse relationship to educational level: at the level of second degree, Arabs account for 6.1% of all students, and by third degree level, the percentage of Arab students falls to an average of 3.5% of all students.<sup>121</sup>

#### **14. Rights to vote and be elected**

*Articles 25, 12, 27*

##### **Suggested questions**

The Committee is concerned that, in recent years, several laws have been enacted that together act to narrow the space available for Arab citizens of Israel to participate in the elections to the Knesset and to fulfill their roles as members of Knesset (MKs). These laws allow political parties and individual candidates to be banned from running in elections to the Knesset on broad ideological grounds. Some of them also place barriers on travel and contacts between the Arab minority in Israel and the wider Arab and Muslim worlds, thereby violating the rights of Arab citizens protected by articles 25, 12 and 27 of the Covenant. In light of attempts to disqualify Arab candidates and party lists in 2003, 2006 and 2009 from the general elections and decisions by the Central Elections Committee (CEC) to disqualify a number of Arab candidates and parties, what steps, if any, is the State party taking to guard against attempts to disenfranchise the Palestinian minority in Israel and undermine their access to the political system, in accordance with article 25 of the Covenant? Given that the decisions made by the CEC to disqualify Arab candidates and parties have been subsequently overturned by the Supreme Court, how does the State party intend to ensure the operation of the CEC as a professional, neutral body? In general, how will the State party seek to generate a climate in which Arab citizens of Israel are able to exercise their right to access the political system on an equal footing with Jewish citizens?

##### **Background to the questions**

Several new laws institute a range of restrictions on access to the political and electoral systems and have the most severe impact on 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:

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<sup>117</sup> Central Bureau of Statistics (CBS), "New Survey – Investment in Education 2000/1," 3 August 2004 (Hebrew).

<sup>118</sup> CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.9.

<sup>119</sup> CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.24.

<sup>120</sup> There are no CBS figures available specifically for Arab Bedouin children. Hannan el-Sana and Ajaj Asif, "The Arab Bedouin Population in the Naqab: Economics and employment," The Naqab Institute for Peace and Development Strategies, 2007.

<sup>121</sup> CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.52.

- 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.”<sup>122</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>123</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>124</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, Palestinian MKs are the main victims and targets of this ban.<sup>125</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>126</sup>
- In 2008, 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 were banned from running in the Knesset elections.<sup>127</sup>

These provisions constitute violations of articles 25 and/or articles 12 and 27 of the Covenant. It also constitutes a violation of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious Minorities that safeguards the right of minorities to keep their contacts “across the frontiers with citizens of other states to whom they are related by national or ethnic, religious or linguistic ties.”

Recent election cycles have witnessed attempts by the former Attorney General and right-wing political parties and MKs to disqualify Arab parties and individual MKs from 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”. In response to

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<sup>122</sup> The Basic Law: The Knesset, Amendment 35 – 2002, Section 7A, entitled “Prevention of participation in the elections.” This article was used as the basis of attempts to disqualify Arab political parties and candidates in the 2003, 2006 and 2009 rounds of Knesset elections. See Adalah briefing paper:

[http://www.adalah.org/features/political/Briefing\\_paper\\_on\\_disqualifications\\_jan\\_2009\[1\].doc](http://www.adalah.org/features/political/Briefing_paper_on_disqualifications_jan_2009[1].doc).

<sup>123</sup> The Law of Election (1969), Amendment 46 – 2002, Section 57.

<sup>124</sup> The Law of Political Parties (1992), Amendment 12 – 2002, Article 5, entitled, “Limitations on Registering a Political Party.”

<sup>125</sup> Order for the extension of the Validity of Emergency Regulations (Foreign Travel) (1948), Amendment 7 – 2002.

<sup>126</sup> The Law of Immunity of Members of Knesset: Their Rights and Their Duties (1951) (Amendment 29), 22 July 2002.

<sup>127</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.

the CEC's decision to ban the two parties, which was supported by the Likud, Labor and Kadima, 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>128</sup>

## **15. Status of the Arabic language**

*Articles 27, 19*

### **Suggested questions: Ban on the import of books**

How is compliance with articles 19 and 27 the Covenant ensured when the availability of books in Arabic from certain Arab countries is banned from entering and being sold in Israel on security grounds? Has the State party considered alternatives to the blanket ban on the import of books published and/or printed in such countries into Israel?

### **Background to the questions**

In a case brought before the Supreme Court recently by Adalah,<sup>129</sup> the Israeli Ministry of Industry, Trade and Labor (MITL) removed the license issued to Mr. Saleh Abbasi, the owner of *Kull Shay*, the largest supplier of Arabic language books in Israel, to import books that were published in Syria and Lebanon – “enemy states” – from Egypt and Jordan. Kull Shay has been importing books from Egypt for 30 years and Jordan for 15 years, many of which were published and printed in Syria and Lebanon. Throughout this period, Kull Shay secured the consent of the government censor for the imported books. The recent ban was imposed in accordance with the British mandatory-era “Trade with the Enemy” Ordinance of 1939. The ordinance proscribes unauthorized trade that might constitute a security threat and places a total ban on all forms of trade relations with “enemy nationals”. The use of draconian Mandate-era regulations to ban reading material in Arabic in this case represents a clear violation of the rights to freedom of opinion and expression of Arabic speakers and readers in Israel, along with students of Arabic and Middle East studies, as well as the rights of the Palestinian national minority in Israel to enjoy their own culture and use their own language (article 27 of the Covenant). Furthermore, the use of security pretexts to justify the ban is disproportionate given the tight import restrictions exercised by Israel.

The ban has a particularly pernicious effect on expression in the Arabic language inside Israel, since around 80% of Arabic-language books sold in Israel, and most of the Arabic-language books needed for college and university libraries, as well as the Israel National Library, are published in Syria and Lebanon. Only Lebanese publishing houses publish Arabic translations of well-known children books, Arabic translations of classical literature including the works of Shakespeare and Molière, modern world literature, and professional Arabic dictionaries. Many works classical and modern Arabic literature are published in Lebanon and Syria, as are Arabic language textbooks, and

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<sup>128</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>129</sup> H.C.894/09, *Kol Bo Books v. The Minister of Finance* (case pending).

only Syrian publishing houses publish Arabic translations of Hebrew literature.

The owner of Kull Shay was granted a one year temporary renewal of his license to import books from Egypt and Jordan. The petition remains pending on Adalah's demand to cancel the ordinance and/or to cancel the application of the ordinance in relation to books.<sup>130</sup>

### **Suggested questions: Arabic road signs**

Please comment on the July 2009 decision by the Transport Minister to remove the Arabic names of towns and villages from all road signs in Israel and to replace them with the Hebrew names of the places using Arabic letters, regardless of the common and historical Arabic name of the place. In practical terms, what is the meaning and content of the status of Arabic as an official language of the state, alongside the Hebrew? What measures is the State Party taking to ensure that Arab citizens of Israel are able to use their own language and enjoy their own culture, in accordance with article 27 of the Covenant?

### **Background to the questions**

In July 2009, the Transport Minister made a decision to Hebraicize all road signs in Israel, contrary to an Israeli Supreme Court judgment delivered in 2002 on a petition submitted by Adalah and the Association for Civil Rights in Israel (ACRI), which obliges the municipalities in the mixed cities to add Arabic to the traffic and warning signs as well as other informational signs in areas under their jurisdiction, cited in Israel's report (para. 595).<sup>131</sup> The Transport Minister's decision entails the replacement of all the road signs in the state with new signs that show the Hebrew names of places in Arabic letters, regardless of the common and historical Arabic name of the place. For example, "Jerusalem" would become "Yerushalaim" in Hebrew, English and Arabic, and "Al-Quds" (the Arabic name for Jerusalem) would cease to exist on the road signs.<sup>132</sup>

In the Supreme Court's decision, former Chief Justice of the Supreme Court, Aharon Barak, stated that, "Indeed language plays a major role in human existence for both the individual, and for society. Using language we express ourselves, our individuality and our social identity. Take away a person's language and you have taken away his essence. [...] it is therefore my conclusion for the matter at hand, that the proper balance between the two competing purposes leads to the conclusion that on intercity road signs in the respondent cities, there should also be added, alongside the Hebrew writing, directions in Arabic."<sup>133</sup> The court also ruled that the right to equality and personal freedom to use one's mother tongue, the special status of the Arabic language in the state as the language of a large national minority, and the fact that it is closely linked to the historical, religious and cultural characteristics of the Arab minority in Israel, necessitates the addition of the Arabic language to the street signs in the mixed cities. For Palestinian citizens of Israel, the name of the town is not a formality, but an integral part of the Arabic language and Palestinian culture. Furthermore, under Israeli law Arabic is an official language in the state, as well as the mother tongue of the national minority, and thus, the state has a duty to maintain and develop this language and use it in a way that will ensure its preservation in all areas and levels, in accordance with its obligations under article 27 of the Covenant.

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<sup>130</sup> See: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_01\\_27](http://www.adalah.org/eng/pressreleases/pr.php?file=09_01_27); see also Batsheva Sobel, "Israel: Reading with the enemy", *LA Times*: <http://latimesblogs.latimes.com/babylonbeyond/2009/02/israel-reading.html>

<sup>131</sup> H.C. 4112/99, *Adalah, et al. v. The Municipality of Tel Aviv-Jaffa, et al.*

<sup>132</sup> On 15 July 2009, Adalah sent an urgent letter to the Attorney General demanding the cancellation of the Transport Minister's decision, to which it has to date not received a reply.

<sup>133</sup> H.C. 4112/99, *Adalah, et al. v. The Municipalities of Tel Aviv-Jaffa, et al.* (decision delivered 25 July 2002).