

Sticker No. 5: Security Inspections, Racial Profiling, and the Violation of the Basic Rights of Arab Citizens of Israel

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In August 2009, Islam, Mar'am, Lina and Saf'aa, four Muslim girls from the Arab village of Jatt, located in the Triangle area in the center of Israel, went to visit their aunt in Tel Aviv. They wanted to see the "Harry Potter" film screening at 2:00 p.m. at the movie theater in the DizengoffCenter. They approached one of the mall's entrances, along with their cousins, May and Adam Akaad. The security guard at the entrance of the mall allowed May and Adam to enter but prevented the girls, who were dressed in traditional Muslim clothing, from entering and demanded that they show him their identity cards. Islam and Lina, who have identity cards as they are over 16 years-old, complied with his request.

The security guard looked at the identity cards and asked the girls where they live. Islam replied that she was a student at TelAvivUniversityand that she now lives in the city, but that, like her friends, she was born in Jatt. The security guard did not accept this explanation saying that according to the identity cards they live inHadera. Islam explained that they live in Jatt but that the cards had been issued in Hadera. The security guard asked them to wait until the officer in charge of security at DizengoffCenter authorizes him to allow them to enter. He stated that he is acting in accordance with the Center's security policy. The girls saw that the reply was slow in coming and that the film was about to start, and they decided to leave the Center.

The security guard's behavior is just one of many examples of the extent to which racial profiling is practiced by security personnel in Israel. Delaying or preventing entrance to places of entertainment areconsidered to be the "light" aspects of this phenomenon. Arab students, academics and ordinary citizens often undergo a humiliating physical inspection when they leave the country through the airport, sea ports or land border crossings. Each person experiences a different degree of humiliation, yet all have a common denominator: they are all Israeli citizens of Arab nationality.

1. Hidden Racial Profiling

The Israel Airports Authority (IAA) and the GSS [General Security Service, Shin Bet or Shabak] classify travelers on the basis of a profile that outlines those who would be "dangerous." A person who is perceived to constitute a high risk or threat according to this classification undergoes a special inspection. The principle criteria for evaluating potential danger from a certain person are based on racial, ethnic and national factors. This system is followed by all security personnel at the entrances of ports and land border crossings, and is anchored in internal, classified GSS regulations. People entering places of entertainment, commercial centers, tourist sites and other places with a security inspection at their entrance, are also profiled. However, in contrast to points of entrance and exit from Israel, profiling at these locations is concealed and is not anchored in official regulations. Instead, it relies solely on the orders of the security officer in charge or the

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discretion of a junior security guard. These orders are practiced, to a large extent, based on prejudice towards Arab citizens.

When the four girls returned from the sad outing to the Dizengoff Center, they told their aunt, Orna Akaad, about it. She accompanied them back to the Center to verify why their entrance had been prevented. She asked the security guard to let them in, explaining that they are her nieces and only wish to see a film. The security guard then stopped almost everyone from entering the mall, allowing only a few to go inside. When the officer in charge saw the long line forming at the entrance of the mall, he authorized the security guard to allow the girls in. The security guard chose to ignore the order, and the humiliation the girls suffered prompted them to return to their aunt's house for the second time that day.

The next day, they returned to the mall, this time accompanied by a film crew from Israel TV Channel 2's program "What's Happening". When they arrived at the entrance, the security guard prohibited the film crew from filming. An argument broke out between them, resulting in the Director General of the Dizengoff Center and other security personnel coming to the gate. The Director General asked the girls to accompany him to his office in order to resolve the matter. They believed that he intended to apologize to them for the security guard's blatantly racist behavior towards them and, therefore, they agreed to go along with him. To their great disappointment, instead of apologizing, the Director General emphasized that what had occurred was a result of their suspicious appearance. He also did not hesitate to tell them that Dizengoff Center is the only commercial center in Tel Aviv that allows "animals, dogs, cats, freaks, homosexuals, lesbians, minorities and, therefore, even Arabs" to enter. This incident has not yet reached the courts.

2. The origin of racial profiling

The racial profiling that is used against Arab citizens of Israel cannot be attributed to a certain government coalition or a policy that one government or another implemented. It is best described as a natural extension of policies that Israel has implemented towards its Arab citizens since the establishment of the State. From 1948-1966, the Arabs in Israel were placed under military rule, the main purpose of which was to control and tightly supervise them. Then-Prime Minister David Ben Gurion, in his speeches to the Knesset, did not hide his opinion that the Arab presence in Israel is a greater security threat than "the Arab enemy outside"². The abolition of military rule did not erase the pervasive view that the Arabs in Israel constitute a security threat and that the State, therefore, does not hesitate to treat any protest by Arab citizens extremely harshly. Over the years, the State has maintained a light hand on the trigger in all matters regarding Arab citizens.

The behavior of the police towards Arab citizens during demonstrations, which often transforms the protests into battlefields, was criticized in the Or Commission Report, issued in 2003 following the October 2000 events. It stated that "...in the view of this Committee, it is important to act in order to eradicate the negative prejudicial views towards the Arab sector found even among senior and respected police officers. The police must instill in its officers the awareness that the general Arab public is not its enemy and should not be treated as an enemy."

²As described by Yair Boimel in his book "The Military Government and the Process of its Abolition 1956-1987," The Hamizrah Hadash (Volume 43, pp. 133-156) (Hebrew).

The invasive inspections that Arab citizens often undergo are due to the continued perception of Arab citizens as a security threat because of their nationality, and not because they have a criminal or security record.

3. A visit to the airport? No thanks

Since the 1960s, Arab citizens of Israel who have used air transportation services have testified to the stringent and humiliating inspections they have experienced because they are of Arab nationality. The phenomenon began to change owing to actions taken by human rights organizations such as Adalah, Mossawa, the Arab Association for Human Rights and others, which began to report on discriminatory treatment of Arab citizens particularly following the events of October 2000. These organizations prompted Arab citizens to end their silence regarding the injustices they face and helped them to understand that the harsh treatment they undergo at airports is a consequence of intentional discrimination and racial profiling.

The Association for Civil Rights in Israel (ACRI) submitted a petition to the Supreme Court in 2007 against the IAA, the GSS and the Ministry of Transportation demanding that they cease using Arab nationality as a criterion during security inspections at airports. The court has not yet delivered a ruling in this case. (See details here: <http://www.acri.org.il/en/?p=386>) Unfortunately, the racist treatment of Arab citizens is greatest in situations in which a person whose dignity was violated during the inspection process complains to the security personnel. In many cases, a complaint is filed against the citizen who has protested. Additionally, he may be detained by the Ben Gurion Airport police on the grounds that he violated regulations, disrupted the work of a public employee or assaulted a public employee who was fulfilling his duty.

Two youths from the north of Israel, who arrived at Ben Gurion airport on 28 March 2009 for a flight to Greece, had this experience. They reached the airport at 3:00 a.m., six hours before their scheduled departure. When the security officer who examined their passports discovered that they were Arab, he began to question them and he attached a sticker to their luggage with the number five on it. After undergoing an extensive inspection procedure in which nothing suspicious was discovered, they were still not allowed to board the plane. They tried to complain to senior airport security officers; however, the two senior directors with whom they spoke only reiterated that they must undergo the inspection again. Although one of the security officers accompanying the senior director treated the two friends with contempt and spoke aggressively to them, the senior director remained quiet and instructed them to wait for the police. The police were called because a complaint was submitted against the two youth, who were arrested in front of all the other passengers. Ultimately, only one of the youth was interrogated on suspicion of committing offenses, and disturbing and assaulting a public employee. On 6 October 2010, the two friends received a letter from the Israel Police stating that the file was closed as the circumstances do not justify the continuation of the investigation or the filing of charges.

Even if an Arab citizen is not subjected to racial profiling, either because his appearance is not that of a "typical" Arab or because the security personnel do not hear an Arab accent in his voice, he/she is still not exempt from discriminatory treatment. There is no real possibility of concealing one's national and ethnic background. If at any of the stops on the way to the boarding gate it becomes apparent to a security officer that one of the passengers is an Arab, that passenger will be taken aside for questioning. The questions often relate to matters that are unrelated to security needs. In the best case scenario, this

questioning takes place only once. Often several security officers are involved, each of whom will take turns questioning the passenger. At the end of the questioning, a security officer will paste a sticker on the passenger's luggage with a number between 1 and 6. This number determines the course of the remaining security inspection. Arab passengers generally receive stickers with the numbers 5 or 6, indicating a high level of potential danger or threat.

The remainder of the process includes passing luggage through a screening machine, emptying suitcases, examining each and every item separately, questioning the traveler regarding some of the objects (in some of the cases this inspection takes place in front of the other passengers, without consideration of the privacy or feelings of the passenger), passing through a metal detector, and a physical body search. During the latter examination, a security officer pats down the passenger's body over his clothing and afterwards the passenger is inspected by a magnetometer. At times the passenger, male or female, is asked to strip. A security officer can even ask the passenger to remove his undergarments on the pretext of security requirements. The nature of the inspection, which is humiliating and degrading and which in many cases can amount to sexual harassment, causes many passengers to abandon the trip altogether.

4. Violation of the right to privacy, equality and dignity

A Hebrew University sociology lecturer, a resident of BeitSafafa, went to Ben Gurion Airport on his way to London. He was travelling to attend the annual editorial board meeting of a prestigious journal published in Britain. The airport security officers led him through all of the inspection procedures described above, including a physical body search in a side room, even though nothing suspicious had been discovered in earlier stages of the inspection. The examination was comprehensive. The inspector examined his head, ears, neck, underarms, and hips, where he lingered briefly, and finally his feet.

During the second stage of the body search, the inspector inserted a cloth covered stick, with an unknown substance on its end, into the lecturer's trousers. He patted down the lecturer's lower body, including his private parts, with the stick. The security inspector's behavior crossed all red lines, and the lecturer complained to the security officers about his feeling of humiliation and the violation of his privacy and dignity, but to no avail. The security supervisor explained to him that unless the security guards completed their work, he would not be able to board the plane.

The lecturer refused to cooperate with the inspectors and left the room. He asked the security personnel if he could speak with the highest ranking airport official, but his request was denied. He called British Airways, on whose flight he was booked; a company representative expressed understanding for his situation but said that she was unable to help him in the matter of security inspections. She could only expedite the process so that he would not miss the flight. The lecturer returned to the luggage inspection point and was asked to return to the side room with the security officers. Two inspectors waited for him there. One examined his legs and feet and then the second inspector asked him to lower his pants to his knees. The lecturer told the inspector that he would only lower his pants if all the other passengers would be required to do so and he returned to his home.

Dr. Ghanem had a similar, degrading experience while she was travelling to an academic conference in France. After entering the side room for a body search, the inspector began to pat down her body. When the inspector began to touch Dr. Ghanem's chest, and to focus

on that area of her body, Dr. Ghanem felt sexually harassed and that the line between security inspection and sexual assault and humiliation had been crossed. She left the room shocked and frightened.

The inspection process described above takes an average of three hours. During this time the Arab passenger encounters humiliating treatment. After the security inspection ends, the Arab passenger continues on to passport control and the departure gate. In many cases a security officer accompanies him, but the traveler is not always aware of this. Sometimes, the security officer will forbid the Arab passenger from speaking with other passengers at the airport or from entering the duty free shops before takeoff.

5. Buttons and beeps

Similarly, Arab citizens of Israel experience difficulties returning home from a trip abroad. In most cases, Israeli security officers wait for passengers at the entrance to the terminal. Sometimes, if they find an Arab citizen, they will ask him to accompany them to a side room, usually at a far off corner of the terminal. In most cases, the Israeli security officers search the Arab citizen's luggage even before it goes through any of the regular inspection points.

On 2 December 2010, Khalil arrived at the airport on the Greek island of Rhodes for his flight back to Israel. He had been traveling with a group made up mostly of Jewish Israelis; he and his friend were the only Arabs in the group. When their Arab identity was discovered, they were separated from the others. The Israeli inspector studied Khalil's passport, and directed him to an inspection post where she asked him numerous questions which violated his privacy. Immediately after the questioning, the inspector took his passport and the National Service card he had shown her. She returned after a few minutes with another inspector who stated that he was a senior inspector. He asked Khalil to answer questions similar to those the first inspector had asked. The senior inspector placed great emphasis on Khalil's current work with the Ministry of Health as a security guard at Rambam Hospital in Haifa.

Apparently, Khalil's replies did not satisfy the inspectors and he had to undergo questioning for the third time. This time, he was questioned by a female inspector who had previously interviewed his travel companion. She asked Khalil to answer questions on his friendship with the other traveler, to see whether their answers matched. Afterwards, Khalil's luggage was examined in an X-ray machine. No suspicious items whatsoever were found, but the inspectors decided to continue treating him differently. They emptied Khalil's bags in a side room in the airport and examined each and every item. At the same time, Khalil was asked to join an inspector in a separate side room. There, he underwent an exhaustive body search during which the inspector patted down his body from his head to his feet.

The magnetometer used to scan Khalil's body beeped when it touched the button of his trousers. The inspector asked him to remove his trousers; he did not object, despite the humiliation that he felt throughout the inspection. This feeling reached its peak when the inspector scanned his lower body with the magnetometer, touching his private parts in an invasive and degrading way. This was done despite the fact that Khalil was told the machine beeped because it came close to a metal button. At the end of the body search, Khalil was asked to accompany the inspector to again examine his bags and their contents. At the end of the extensive examination, two inspectors accompanied Khalil and his friend

as they went through the routine inspection points at the Rhodes airport. One of the security officers boarded the flight and flew with them to Israel.

6. The solution: legislation

Racial profiling has one end result: violation of the rights of Arab citizens of Israel. A most obvious consequence of racial profiling is a violation of the balance between the protection of human rights and the safeguarding of security. The rights violated by security inspections based on racial profiling include the right to equality, since Jewish Israeli citizens are not required to undergo the same inspection process. This matter was addressed by former Supreme Court Chief Justice Aharon Barak who spoke about the importance of the right to equality in one of his decisions:

"The need to ensure equality is not natural to man. It is based on considerations of justice and decency. One who asks for recognition of his rights needs to recognize the rights of the other to ask for a similar recognition. The need to maintain equality is vital to society and to the social pact it is built upon. Equality protects the regime from arbitrariness. Therefore, there is no greater destructive element in a society than the sense her subjects have that they are being treated with discrimination. The sense of inequality is one of the most difficult feelings. It harms the forces that unify society. It harms a person's self identity."³

Additional rights that are violated by security inspections based on racial profiling include the rights to dignity and liberty, the right to freedom of movement and the right to privacy.

However, the State does not admit that its Arab citizens are "racially profiled" and undergo security inspections on this basis. Its institutions refer to the inspection that Arab citizens undergo as a "differential inspection." According to this view, security inspection is based on criteria that are relevant to the protection of the State and Israeli air travel. Various rules regulating this form of inspection derive from this characterization. Several Israeli laws afford the IAA the authority to carry out "differential inspection" of passengers. These laws empower the IAA and security personnel to safeguard the public's life and the security of the State by performing inspections and searches based on reasonable suspicion of harm to the security of the public, the security of the State or human life. These laws do not grant powers to specify a national group or group of citizens and inspect passengers solely because they belong to those groups. As the GSS is a part of the state authorities, administrative law applies to it and obligates it to act in an equal manner towards all citizens, without distinguishing between them on the basis of nationality.

The failure of the laws to clearly prohibit the use of racial profiling has in fact legitimized the use of this practice against Arab citizens of the State.

³HCJ 935/87, *Labor Party v. the Tel Aviv-Jaffa City Council*, PD MB (2), 309, p. 327