

Adalah The Legal Center for Arab Minority Rights in Israel

عدالة المركز القانوني لحقوق الأقليات العربية في إسرائيل
עזאלה המרכז המשפטי לזכויות המיעוט הערבי בישראל



Suggested Issues for Adoption of List of Issues Prior to Reporting
UN Human Rights Committee's review of Israel at the 105th session

The Rights of Palestinian Arab Citizens of Israel

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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 adopting a List of Issues Prior to Reporting (LOIPR) in July 2012. This report provides information on ten urgent issues of discrimination against Palestinian Arab citizens of Israel and Israel's lack of compliance with its commitments under the International Covenant on Civil and Political Rights (ICCPR). The ten issues are:

1. Lack of protection for the right of equality
2. Excessive use of force by police against demonstrators
3. The ongoing ban on family unification
4. Violations of the right to freedom of religion
5. The inferior treatment of the Arabic language
6. The demolition and evacuation of unrecognized Arab Bedouin villages
7. The lack of access to water in unrecognized Arab Bedouin villages
8. Violations of the freedom of opinion, expression and association
9. Infringements on the right to political participation
10. Violations of the right to choose one's residence

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1. Lack of Protection for the Right to Equality

Articles 2, 26

Israel lacks a written constitution or a Basic Law that constitutionally guarantees the right to equality. Contrary to Israel's assertion at the previous review session that equality is a "fundamental principle ... apparent both in legislation and adjudication,"¹ no Basic Law or statute enshrines the right to equality generally or for the Palestinian minority in particular. Several ordinary statutes provide protection for the right of equality for women and people with disabilities, however, these laws expressly do not apply to the entire population.² The state's failure to explicitly guarantee the right to equality in the Basic Laws exposes the Palestinian minority in Israel, which numbers 1.2 million people or 20% of the population to direct and indirect discrimination.

The Basic Law: Human Dignity and Liberty, which is considered by Israeli legal scholars to partially fill the role of a bill of rights, does not enumerate a right to equality. On the contrary, this Basic Law emphasizes the character of the state as a Jewish state.^{3,4} While some Supreme Court justices have interpreted the right to dignity as including the principle of equality,⁵ this fundamental right is currently protected by judicial interpretation alone. In contravention of the Committee's 2010 concluding observations, as well as the recommendations of other human rights treaty bodies, Israel has not guaranteed the right to equality or non-discrimination in the Basic Laws.⁶

The constitutional legal framework has allowed Israel to enact over 40 discriminatory laws. These laws discriminate explicitly in that they relate only to the rights of Jews in Israel or abridge the rights of Arab citizens, or implicitly, using neutral language and general terminology, while nevertheless having a

¹ Replies of the Government of Israel to the List of Issues (CCPR/C/ISR/Q/3/Add.1.), July 2010

² 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.

³ 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. The Basic Laws of Israel in English are available at: http://www.knesset.gov.il/description/eng/eng_mimshal_yesod1.htm

⁴ Israeli laws frequently refer to Israel as "the Jewish State," appeal to "the values of the State as a Jewish State," or apply "Israel's heritage" as a source of law.

⁵ See, e.g., Justice Aharon Barak's ruling in HCJ 7052/03, *Adalah v. The Minister of the Interior* (decision delivered 11 January 2012). "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."

⁶ UN Human Rights Committee (HRC) Concluding Observations of 2010, para. 6, CCPR/C/ISR/CO/3. See also: The Committee on the Elimination of Racial Discrimination (CERD) Concluding Observations of 2012, para. 13 (CERD/C/ISR/CO/14-16); Concluding Observations of 2007, para. 16, 17 (CERD/C/ISR/CO/13); The Committee on the Elimination of Discrimination Against Women (CEDAW) Concluding Observations of 2011, para. 10, 11 (CEDAW/C/ISR/CO/5); The Committee on Economic, Social and Cultural Rights (CESCR) Concluding Observations of 2003, para. 16, 32 (E/C.12/1/Add.90).

discriminatory effect on Arab citizens of Israel.⁷ They limit the citizenship rights, political participation rights, land and housing rights, culture rights, education rights, and religious rights of the Palestinian minority. A list of recent discriminatory laws and proposed bill is attached in *Annex 1*.

Pervasive inequality exists between Jewish and Arab citizens. For example, Arab citizens are under-represented in the civil service. According to a state report from January 2012, Arab citizens of Israel account for just 7.79 percent of total civil service employees.⁸ State data also show that only 2.83% of civil service employees were Arab women.⁹ Most Arab civil service employees are employed by the Ministries of Health and Education, in service-provision positions (e.g. as nurses, doctors or teachers). It is exceedingly rare for Arab citizens to serve in any decision-making positions. Government Decision 2579 of 11 November 2007, established targets to increase representation, but these targets have not been achieved. The decision stipulated that by 2010 at least 8% of the civil service should be composed of Arab citizens, and by 2012 the figure should rise to 10%.¹⁰

Israel often uses the criteria of military or national service to discriminate against Palestinian citizens of Israel. It does so by awarding a very wide array of benefits, over and above those originally legislated in the Absorption of Discharged Soldiers Law (1994).¹¹ Palestinian citizens are exempted from serving for historical and political reasons.

⁷ 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.

⁸ Israel – Civil Service Commission, “Notice to Extend the Order to Designate Jobs for Arab Populations, Including Druze and Circassians,” 5 January 2012 (Hebrew). <http://www.civil-service.gov.il/Civil-Service/TopNavHe/Units/TichnunBakara/UnitForms/2012-6.htm>. According to the European Commission, “Israeli Arabs accounted for 7.5 percent of the civil service workforce by September 2011... less than a one percent increase on the previous year and well below the ten percent targeted for 2012 by legislation.” European Commission, “Implementation of the European Neighbourhood Policy in Israel Progress in 2011,” 15 May 2012; p5. Available at: http://ec.europa.eu/world/enp/docs/2012_enp_pack/progress_report_israel_en.pdf

⁹ Israel – Civil Service Commission, “Summary Report on the Integration of Arab Citizens, Druze, and Circassians in 2010,” 31 May 2011.

¹⁰ See, Sikkuy, “The Equality Index of Jewish and Arab Citizens of Israel,” December 2010 and David Lev, “Civil Service Head: Israel Behind on 'Affirmative Action' Goals,” 12 July 2011. Available at: http://www.sikkuy.org.il/english/en2009/r_sikkuy09.pdf and <http://www.israelnationalnews.com/News/News.aspx/145655#.T6ius-hDvWo> respectively.

¹¹ See, *inter alia*, Amendment no. 12 (2010) to the Absorption of Discharged Soldiers Law (1994), The Rights of those who Performed Military or National Service Bill (2010), and the Civil Service Law (Appointments) – Amendment (Affirmative Action) Bill (2009). These are detailed in Appendix 1: Adalah, “New Discriminatory Laws and Bills in Israel,” June 2012.

2. Excessive use of Force by Police at Demonstrations

Articles 2, 6, 7, 19, 21

The Israeli police routinely use excessive force against and arrest Palestinian Arab citizen demonstrators as a deterrent against protest. Israel's refusal to properly investigate police violence has been criticized by the UN HRC as well as the UN CERD.¹² Examples are provided below.

Police brutality against residents and demonstrators in Al-Araqib

Al-Araqib, an unrecognized Arab Bedouin village in the Naqab (Negev) region, has been completely demolished by the Israeli authorities more than 30 times since July 2010. All the land in Al-Araqib remains legally disputed between the Arab Bedouin and the state. At dawn on 27 July 2010,¹³ the residents Al-Araqib awoke to find themselves surrounded by police officers, some on horseback. The police, carrying guns, tear gas, truncheons and other arms, declared the village a "closed area" and ordered the residents to leave their homes within two minutes, threatening to forcibly evict anyone who resisted. No less than 1,300 police then proceeded to demolish the homes. In addition to razing the 45 homes to the ground, the security forces also uprooted around 4,500 olive trees and confiscated all of their possessions. Afterwards, the residents, now homeless, were required to pay NIS 22,500 (about \$6,000) to retrieve their property. One year later, on 26 July 2011, the state initiated legal proceedings for NIS 1.8 million (USD 470,000), demanding residents pay for the cost of demolishing their homes.

In August 2010, Adalah requested an immediate criminal investigation¹⁴ into police officers' violent destruction of the village and the use of brutal force against residents, leaders and activists. In the early demolitions, police officers obscured their faces and did not wear identity tags. The state escalated its use of force in 2011, regularly employing tear gas and rubber bullets against all residents, including women and children. In November 2011, Adalah submitted an official complaint to the Ministry of Justice's Police Investigation Unit (Mahash) against the excessive police brutality against villagers and activists; to date, there has been no response. Since January 2011, at least 25 people have been arrested and detained for protesting the demolition of the village. Adalah is representing 10 villagers and activists on 15 indictments, with some village leaders and local activists facing multiple charges.

Assault and arrest of peaceful Nakba Day demonstrators

In May 2011, several demonstrators were arrested while participating in a non-violent protest near Kufr Bir'im, a destroyed Palestinian village in the north of Israel, to commemorate the 63rd anniversary of the Palestinian Nakba.¹⁵ These protestors attempted to reach the Lebanese border but the Israeli police did not allow their buses to continue in that direction stating that the area was a closed military zone. Two other protestors traveling on a bus from Jerusalem were also prevented by police from joining the demonstration near Kufr Bir'im. When one of the demonstrators asked a police officer why they were not permitted to hold a peaceful demonstration, he slapped her, an assault that was caught on video.

¹²HRC Concluding Observations of 2010, para. 12 (CCPR/C/ISR/CO/3), and UN CERD Concluding Observations of 2007, para. 30 (CERD/C/ISR/CO/13).

¹³For more information on Al Araqib and the ongoing demolition campaign, see Adalah's Press Release, "One year later in Al-Araqib," 27 July 2011, http://www.adalah.org/eng/pressreleases/pr.php?file=27_07_11

¹⁴ See Adalah's Press Release, 3 August 2010, http://www.adalah.org/eng/pressreleases/pr.php?file=20_09_10.

¹⁵ 'Nakba' refers to the expulsion of hundreds of thousands of Palestinian Arabs which occurred during the War of 1948 and the establishment of the state of Israel. See Adalah, "Magistrates' Court Released Six Detainees of the Nakba Demonstrations in Israel to House Arrest for Four Days", 18 May 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=18-1_05_11;

The detainees were badly beaten by the police, as shown in the photographs taken of them in the court and videos that were taken during the demonstrations.

On 15 June 2011, Adalah submitted a detailed complaint to Mahash to demand the opening of a criminal investigation against Mr. Kobi Bachar, the Deputy Commander of the Galilee District Police, and police officers who assaulted demonstrators during the Nakba Day protests.¹⁶ The complaint argues that both the police breakup of the demonstration and their attacks on protestors violated the law, as the demonstration was legal. The complaint also documents the physical and verbal abuse committed by the police officers, especially against Attorney Maysa Urshaid of the Public Committee Against Torture in Israel (PCATI), who was present as a legal observer.

Mahash did not respond to any of the allegations, except regarding Maysa Urshaid. Without providing any explanation, and despite the video evidence of a senior officer striking her without any prior provocation, the investigations unit sent the case to disciplinary hearings instead of criminal proceedings. Adalah appealed against that decision, but was denied access to the evidence to prepare the petition. An appeal by Adalah against this refusal to present the evidence will be filed shortly.

Abuse of Arab citizens protesting in solidarity with hunger strikers

On 3 May 2012, approximately 200 protestors gathered outside the Ramle Prison compound, where hunger strikers¹⁷ were being held in the IPS medical center. They had a permit to protest issued by the police. At approximately 6:45 pm, after the demonstration ended and most participants had left, several individuals attempted to continue protesting by forming a picket line, which does not require a permit under Israeli law. However, the police violently attacked the group, beating them and using Tasers, even against already-handcuffed citizens. Eight participants including a minor were arrested. When some protestors went to the police station to inquire about those arrested, the police arrested an additional nine people and fined five others. Some of the women detained were sexually harassed, were threatened with rape and were repeatedly called 'bitches' and 'whores'. All of the demonstrators were detained overnight. In the morning, following Adalah's intervention and after the judge reviewed 'secret evidence' provided by the police, the protestors were released to house arrest for three days.

On 6 May 2012, Adalah filed an urgent complaint to Head of Mahash demanding a criminal investigation into the event.¹⁸ The complaint detailed the abuses, based on affidavits collected the night of the demonstration by Attorney Smadar Ben-Natan of PCATI. It also demanded that the deployed Tasers be seized, in order to test whether they had been discharged against already detained protestors, held within the police station.

On 7 May 2012, Adalah filed a second complaint to the Director of the Courts and the Head of the IPS, questioning why detainees had been held for hours even after the court ordered their release. To date, the state has not responded to either complaint.

¹⁶ Adalah, "Adalah: Investigate Police Assault on Nakba Day Demonstrators in Israel", 20 June 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=20-2_06_11

¹⁷ Over 2,000 Palestinian prisoners and detainees held in Israeli jails went on hunger strike in April 2012 to protest abusive detention conditions. Principal demands included ending the use of extended solitary confinement, allowing family visits, reinstating access to education for prisoners, and ending the use of administrative detention. An agreement was reached between the prisoners and the IPS in mid-May 2012.

¹⁸ See Adalah's Press Release, "Adalah Demands Criminal Investigation into Illegal Arrest and Abuse in Custody of 17 Demonstrators; Protest in Solidarity with Hunger-Striking Palestinian Prisoners," 7 May 2012, http://www.adalah.org/eng/pressreleases/7_5_12_1.html

Ongoing impunity for October 2000 killing of 13 Palestinian Arab citizens

Nearly twelve years have passed since the October 2000 events in which 13 Palestinian Arab citizens of Israel were killed by the Israeli police and security forces, and hundreds of others were injured. In 2008, following an official commission of inquiry and investigations by Mahash, the former Israeli Attorney General (AG) Menachem Mazuz decided to close all case files into the October 2000 killings with no indictments submitted against any police officer or commander or any political leader responsible for the deaths.¹⁹

Adalah has called for the re-opening of investigations and for the establishment of an independent committee with the power to issue indictments. Adalah published a new report in October 2011 entitled *The Accused – Part II*, which exposes serious conflicts of interest in Israel's state investigatory bodies regarding the October 2000 killings.²⁰

In Israel's latest state reports to CERD, submitted in January 2011, the state party reiterates the AG's decision, "that it would be improper to interfere with the decisions made by the Department for the Investigation of Police Officers," since "the investigative material did not provide a sufficient evidentiary foundation that would enable the filing of indictments against any of the suspects".²¹ It should be noted, however, that the AG's decision deviates from established legal custom regarding the evidentiary threshold required for the purpose of filing an indictment. Decisions were biased in such a way as to shield the suspected police officers/commanders from indictment and prevent an accurate account of the events from coming to light. The Or Commission of Inquiry into the October 2000 events found in its report of September 2003 that "in the events of October, these [potentially lethal] means were used in many incidents without any objective justification."²² These means included the firing of live ammunition and rubber-coated steel bullets. The Or Commission report specifically links the unjustified orders to open fire with the killings inflicted by the Israeli security forces.²³

¹⁹ Professor Philip Alston, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, criticized the Attorney General's decision in the October 2000 killings cases in his report of May 2008 to the UN Human Rights Council. Professor Alston concluded that the Attorney General's decision not to issue indictments "would appear to fall short of international standards."

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/8session/A-HRC-8-3.doc>

²⁰ Adalah, "The Accused – Part II" (Executive Summary), October 2011:

http://www.adalah.org/features/october2000/The_Accused_Report_II.doc. See also Adalah, "Adalah's New Report Exposes Serious Conflicts of Interests in Israel's State Investigatory Bodies regarding the October 2000 Killings of 13 Arab Citizens," 25 October 2011: http://www.adalah.org/eng/pressreleases/9_10_11.html; Adalah, "The Accused – Part I" (Executive Summary), October 2006 :

<http://www.adalah.org/features/october2000/accused-s-en.pdf>

²¹ Israel, "Fourteenth to sixteenth periodic reports of States parties due in 2010," 17 January 2011, pp.48-49 (CERD/C/ISR/14-16)

²² See the English "Official Summary of the Or Commission Report," p. 46, translated independently by Haaretz, available at: <http://www.sikkuy.org.il/english/2004/OfficialSummary.pdf>.

²³ Ibid. especially pp 36-40.

3. Ongoing Ban on Family Unification

Articles 17, 23, 24, 26 and 27

On 11 January 2012, Israel's Supreme Court, for the second time, upheld the Citizenship and Entry into Israel Law (Temporary Order) by a vote of 6-5.²⁴ The law flagrantly discriminates against Palestinian citizens of Israel, who represent the overwhelming majority of Israeli citizens married to non-citizen Palestinian/Arab/Muslim spouses. The Committee as well as the other human rights treaty bodies including CEDAW, CERD, and CESCR, and the international community have repeatedly criticized the law and called on Israel to revoke it.²⁵ 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 by the ICCPR.

The original law, enacted in 2003, denies Palestinian Arab citizens of Israel the right to acquire residency or citizenship status in Israel for their Palestinian spouses from the Occupied Palestinian Territory (OPT), based entirely on the spouse's nationality. Those few Palestinians who are granted temporary permits to live with their spouse in Israel are denied the ability to work or to drive, or access to health insurance and social security. The law is blunt and sweeping in its application and is totally disproportionate to the alleged security reasons cited by Israel to justify its enactment. As a result of this law, thousands of Palestinian families are unable to live together in Israel, are forced to live together illegally, or are compelled to separate.

The law was amended in 2007, extending 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." In June 2008, the Gaza Strip was added to this list, nullifying any possibilities of family unification between citizens of Israel and residents of Gaza. At the same time, however, the "gradual process" of naturalization for residency and citizenship status in Israel for all other "foreign spouses" remains unchanged. This law, in depriving citizens of their right to maintain a family life in their country of citizenship based only on the ethnic or national belonging of their spouse, has no parallel in any democratic country.

Adalah has been fighting the law before the Israeli Supreme Court since 2003. In May 2006, a 6-5 majority of the Supreme Court decided to uphold the law.²⁶ Adalah submitted a second petition in 2007, challenging the expanded version of the law. According to the state's response,²⁷ 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 conspicuously to provide any details about these cases, nor did the

²⁴ HCJ 466/07, *MK Zahava Galon v. The Attorney General, et al.* (decision delivered on 11 January 2012). See Adalah's Press Release, "Israeli Supreme Court Upholds Ban on Family Unification," 12 January 2012, http://www.adalah.org/eng/pressreleases/12_1_12.html. For a summary of the Court's decision in English: <http://www.adalah.org/newsletter/eng/jan12/docs/Summary%20Citizenship%20Law.pdf>

²⁵ HRC Concluding Observations of 2010, para. 15 (CCPR/C/ISR/CO/3); HRC Concluding Observations of 2003, para. 21 (CCPR/CO/78/ISR); UN CEDAW, Concluding Observations of 2011, para. 24-25 (CEDAW/C/ISR/CO/5); UN CEDAW, Concluding Observations of 2005, para. 33-34 (CEDAW/C/ISR/CO/3); UN CERD, Concluding Observations of 2012, para. 18 (CERD/C/ISR/CO/14-16); UN CERD, Concluding Observations of 2007, para. 20 (CERD/C/ISR/CO/13); UN CERD, Special Decisions of 2004 (Decision 2/65) and 2003 (Decision 2/63); UN CESCR, Concluding Observations of 2011, para. 20 (E/C.12/ISR/CO/3); UN CESCR, Concluding Observations of 2003, para. 18, 34.

²⁶ HCJ 7053/03, *Adalah, et al. v. Ministry of Interior, et al.* (petition rejected 14 May 2006).

²⁷ The state's response is on file with Adalah

state provide any data about applications or involvement of persons from “enemy states” in these serious offenses. This lack of information strongly suggests that there is no factual basis for the sweeping ban on family unification with non-Jewish nationals from these states.

4. Violations of the Right to Freedom of Religion

Articles 2, 18, 26, 27.

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

On 22 June 2011, after nearly ten years of deliberation, the Supreme Court of Israel delivered a precedent-setting judgment, ruling that the Big Mosque in Beer el-Sabe (Beer Sheva) in the Naqab (Negev) should be turned into an “Islamic Museum.”²⁸ The petitioners, Muslim religious leaders and community activists represented by Adalah, had asked for the Ottoman-era mosque to be reopened as a place of worship. The Beer el-Sabe Municipality, however, argued that the building should be used as a “general museum,” completely detaching the building from its religious history. They further argued that the mere presence of an operational mosque in the city would endanger public order and safety. The court strongly criticized the Municipality’s position stating that “many of the arguments put forward...should not have been made at all.” The court ruled that the petitioners could approach the planning authorities to ask that the purpose of the building be changed from a museum to a mosque.

Three months after the decision, with shocking insensitivity to Muslims both in Israel and abroad, the Beer el-Sabe Municipality held a wine and beer festival on the grounds of the mosque on 14-15 September 2011, despite the fact that alcohol is strictly forbidden in Islam.²⁹ The use of the mosque for such purposes demonstrates disrespect for the holy sites of religious minorities in Israel.

In further flagrant disregard of the court’s ruling, the State proceeded to open a general museum inside the mosque in December 2011.³⁰ The exhibits make no connection to Islamic or Arab culture, and never mention the building’s original purpose as a place of worship. Other displays include Israeli government buildings and figures wearing old British and Israeli military uniforms. Adalah filed a pre-petition on 6 March 2012, demanding the municipality remove the exhibit.³¹

The state’s failure to respect the religious origins of the mosque or the Supreme Court’s ruling should also be understood in the context of a systematic lack of legal protection for non-Jewish holy sites, as was raised by the Committee in its 2010 Concluding Observations.³² Holy sites in Israel are regulated under the Protection of Holy Sites Law – 1967. While the law does not explicitly distinguish between Jewish and non-Jewish sites, in practice only Jewish holy sites have been declared as such; as of 2009, around 135 sacred places were declared as holy sites, all of which are Jewish. As a result, many Muslim

²⁸ See Adalah’s Press Release, “Israeli Supreme Court Rules to Turn Big Mosque in Beer el-Sabe into an ‘Islamic Museum’,” 24 June 2011. http://www.adalah.org/eng/pressreleases/pr.php?file=24_06_11.

²⁹ See this website screenshot advertising the event. The mosque is referred to as the Negev Arts Museum in the Old City of Beer Sheva. http://adalah.aiforms.com/Public/files/English/International_Advocacy/Beer_el_Sebe_invitation_-_Beer_and_Wine_festival.jpg

³⁰ See Adalah’s Press Release, “By Opening General Museum, Beer el-Sabe Municipality Violates Supreme Court’s Ruling in the Big Mosque Case,” 8 March 2012. http://www.adalah.org/eng/pressreleases/8_3_12.html

³¹ Ibid. The pre-petition is available in Hebrew at: http://adalah.org/Up/Main/File/pre_petition_mosque.pdf.

³² HRC Concluding Observations of 2010, para. 20 (CCPR/C/ISR/CO/3)

holy sites have been neglected and desecrated, with some converted into bars, night clubs, stores and restaurants. On 16 March 2009, 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 – 1967.³³

The 'Afikomen' Program

Adalah petitioned the Supreme Court in April 2012 demanding that Arab children be included in a new program to fund cultural programming during the Passover and Easter holidays.³⁴ While the Supreme Court did not stop the program, which was provided only to Jewish children, the court scheduled a hearing for July 2012.³⁵

The Ministry of Culture funded the full cost of plays and cultural events for children in 110 Jewish towns in peripheral areas, but not one Arab town was included on the list, despite the over-representation of Arab towns in peripheral areas, and the fact that Arab schools were closed for the Easter holidays, which coincided with the Passover holidays. Adalah noted in the petition that the Ministry organized a similar program entitled 'The Miracle of Chanukah' last winter, in which over 100,000 Jewish children participated. The winter program also excluded Arab children, despite the fact that it coincided with Arab schools' winter holidays and religious holidays.

The Ministry announced in its initial response to the petition that it holds similar programs in Arabic during the Muslim holiday of Eid al-Fitr. However, it did not provide any schedule or information related to these plans, and did not address the fact that the Christian Arab community does not celebrate Eid al-Fitr but does celebrate Easter, which occurred while the Afikomen program was operating, during the Jewish holiday of Passover. These exclusions demonstrate the inferior position of non-Jewish religions in Israel and violate Arab children's constitutional right to equality.

5. Inferior Treatment of the Arabic Language in Israel

Articles 26, 27

Hebrew and Arabic are the official languages of the State of Israel. As a result of state policy, however, Arabic is used minimally in the public sphere and by public and official institutions, a situation which was criticized by the Committee in 2010.³⁶ The status of Arabic is vastly inferior to that of Hebrew in terms of the resources dedicated to its use and the few opportunities are granted to Arabic speakers to enjoy and use their language. While Israel has taken some steps over the years to use more Arabic – particularly on public signs, and in response to Supreme Court decisions – the state remains unwilling to grant substantive equal status to the Arabic language.

As an example, while over 200 Supreme Court decisions have been translated to English, which is not an official language, and published on the court's website, none of these cases have been translated into Arabic. Ministries also routinely refuse to accept official documents in Arabic, including for issues of

³³ See Adalah's Press Release of 16 March 2009, http://www.adalah.org/eng/pressreleases/pr.php?file=09_03_16_1

³⁴ HCJ 2728/12, *Adalah, et. al v. Ministry of Culture and Sport* (case pending).

³⁵ More information is available in Adalah's Press Releases, of 3 April 2012 and 25 April 2012.

http://www.adalah.org/eng/pressreleases/3_4_12.html; www.adalah.org/eng/pressreleases/25_4_12.html

³⁶ HRC Concluding Observations of 2010, para. 23 (CCPR/C/ISR/CO/3)

personal status that are dealt with by the religious courts. Many forms are provided by the *Shari'a* court system in Arabic only and individuals are sometimes required to provide notarized translations of the documents in Hebrew, incurring significant expenses. On 20 April 2010, Adalah sent a letter to the Director of Courts and the Ministry of Justice asking that major decisions with significance for Arabic speakers be translated and published in Arabic on the Supreme Court's website. The Director of Courts responded on 16 May 2010 that for budgetary reasons the translation of court decisions to Arabic was "complicated" but under consideration. In response to a further letter sent by Adalah after no progress had been made in the issue, the Court Administration replied on 9 August 2011 that it had been unable to find the translators it needed and asked for Adalah's help in identifying translators.³⁷ There are many translators from Hebrew to Arabic in Israel; it is a question of willingness to do so.

Meanwhile, mixed cities are failing to uphold a 2002 Supreme Court decision requiring them to post all road and informational signs in Hebrew and Arabic.³⁸ The decision was delivered in response to a petition filed by Adalah and the Association for Civil Rights in Israel (ACRI). The Municipality of Natserat Illit (Upper Nazareth), for example, still has not implemented the 2002 ruling, in spite of strong criticism from the Supreme Court for its non-compliance. In 2011, nine years after the ruling, the municipality continued to request additional time from the court to implement the decision within its jurisdiction. On 14 April 2011, the Supreme Court heard a follow-up motion for contempt of court and issued scathing criticism of the municipality's position.³⁹ On 13 September 2011, the Supreme Court decided that the Municipality of Natserat Illit must implement the ruling according to a timetable that it suggested in 2008, and ordered it to pay NIS 5,000 in legal expenses.

6. Demolition and Forced Evacuation of Unrecognized Arab Bedouin Villages in the Naqab (Negev)

Articles 7, 12, 17, 26

Palestinian Arab Bedouin citizens of Israel living in unrecognized villages in the Naqab are currently facing serious and pressing threats of eviction, home demolition, and forced displacement. In total, there are approximately 200,000 Bedouin citizens living in the Naqab, representing about 30% of the region's population.⁴⁰ Around 70,000 Arab Bedouin live in 36 unrecognized Arab villages throughout the Naqab, referred to by Israel in its latest submission to the Committee as "unauthorized villages."⁴¹ The remaining population lives in either seven government-planned Bedouin townships, or 10 villages "in the process of recognition" (i.e. Abu Basma villages). The Israeli government views the inhabitants of the unrecognized villages as "trespassers on state land,"⁴² although the historic villages either pre-date

³⁷ This correspondence is on file with Adalah (Hebrew).

³⁸ See H CJ 4112/99, *Adalah et al. v. The Municipality of Tel Aviv-Jaffa, et al.* (decision delivered 25 July 2002).

³⁹ See also Adalah, "Israeli Supreme Court: Natserat Illit is Clearly in Contempt of Court for Failing to Post Road Signs in Arabic", 14 April 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=14_04_11.

⁴⁰ Mustafa, M. and M. Subhi, *Unlicensed: The Policy of Demolishing Arab Homes in Israel*, Center for Contemporary Studies, 2005, p. 48 (Arabic).

⁴¹ State of Israel, "Follow-up to the Oral Presentation by the State of Israel before The Committee on Civil and Political Rights," 28 October 2011. (CCPR/C/ISR/CO/3/Add.1)

⁴² Attorney General's response to Adalah's petition H CJ 2887/04, *Salem Abu Medeghem, et al. v. The Israel Lands Administration, et al.* (petition accepted 15 April 2007). This case challenged the ILA's spraying of poisonous material on crops belonging to Arab Bedouin farmers from the unrecognized villages.

the establishment of the state in 1948, or were established by military order in the 1950s when the Arab Bedouin were expelled from their ancestral land and concentrated into a closed military zone in the northern Naqab.

“Unrecognized” means that the 36 villages are excluded from state planning and government maps, have no local councils, and receive extremely limited or no basic services, including electricity, water, telephone lines, education institutions, or health facilities. The state admits that services are withheld in order to pressure Bedouin residents to relocate to government-authorized towns.

Due to decades of state neglect and limited investment, the government planned towns and Abu Basma villages are crowded, have minimal land for economic development, provide few employment opportunities, have the highest rates of unemployment and poverty in the country, and lack many services typical of urban locales such as banks, post offices and libraries.⁴³ The budgets of these towns are among the lowest in the country,⁴⁴ and according to rankings provided by the Israeli Central Bureau of Statistics (CBS), they earn the lowest socioeconomic rankings.⁴⁵

The Praver Plan

In September 2011, the Praver Committee, a government committee named for its chairman, former Deputy Head of the National Security Council Ehud Praver, released a plan to regulate Bedouin settlement.⁴⁶ The government approved the Praver Plan, which, if implemented, would result in the forced displacement of up to 70,000 Arab Bedouin citizens of Israel.⁴⁷ Though the Praver Plan is unique in its scope and form, it is simply the most recent iteration of the government’s long-standing policy of dispossession and displacement of its most vulnerable citizens.

The Praver Committee, despite a mandate to implement the 2008 recommendations of the Goldberg Committee, departed from these recommendations to create a wholly new and devastating plan.

⁴³ See Ismael Abu-Saad, “State rule and indigenous resistance among Al-Naqab Bedouin Arabs,” *HAGAR Studies in Culture, Policies and Identity* 8.2 (2008): 3-24 and Deborah F. Shmueli and Rassem Khamaisi, “Bedouin Communities in the Negev,” *Journal of the American Planning Association* 77.2 (2011): 109-125.

⁴⁴ See Shlomo Swirski and Yael Hasson, *Invisible Citizens: Israel Government Policy Toward the Negev Bedouin*. Beer Sheva: Adva Center, Center for Bedouin Studies and Development Research Unit, Negev Center for Regional Development, Ben-Gurion University of the Negev, 2006.

⁴⁵ See Suleiman Abu-Bader (ed). *The Negev Bedouin Statistical Data Book*, (Trans. Dana Avidan), Be’er Sheva: Ben-Gurion University, 2011.

⁴⁶ Ehud Praver, *Draft 12 – Implementation Team of the Goldberg Report for Regulating Bedouin Settlement in the Negev: A Proposed Outline for Regulating Bedouin Settlement in the Negev*, March 2011. See Adalah’s overview and analysis of the Praver Plan. October 2011:

<http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>.

⁴⁷ Adalah, “Adalah Urges Government of Israel to Reject Praver Report as it Violates the Rights of the Arab Bedouin and will Displace Thousands from their Homes”, 6 September 2011:

http://www.adalah.org/eng/pressreleases/pr.php?file=06_09_11. Adalah’s letter contained previously unpublished information from archival documents dating from the 1950s and 1960s that show that the Ottoman Government and the British Mandatory Authorities officially recognized traditional ownership of land by the Arab Bedouin, and collected taxes on that basis. Archival documents also prove that pre-state authorities recognized transactions of Jewish individuals who purchased land from the Arab Bedouin. Thus Israel’s current policy of denying recognition of traditional Bedouin land ownership completely contradicts historical precedent and violates the rights of the Arab Bedouin. See also Alternative Information Center (AIC), video on the Praver Plan, 2011: <http://www.youtube.com/watch?v=OK7WARI6yIE>

Though the Goldberg Committee did not recognize traditional Bedouin land ownership, and created new criteria for establishing Arab Bedouin villages that do not apply in the Jewish rural sector, it did recommend the recognition of unrecognized villages in the Naqab (Negev) “as far as possible.”⁴⁸ Praver also ignores the earlier report’s emphasis that the Arab Bedouin in the Naqab are equal citizens of the state with historical, ancestral ties to the land. Instead, the Praver Plan proposes compensation schemes and planning measures that clearly reflect an intention to evict the Arab Bedouin and to permanently confiscate their lands. Against international norms and principles, the Plan was developed without consultation of the Arab Bedouin community and is rejected by all community representatives. Traditional, religious, and political leaders have organized community-wide protests against the discriminatory and imposed plan.

The Praver Plan Law

On 3 January 2012, the proposed Praver Plan Law was released. It is the implementing arm of the Praver Plan. There are three components of the bill:

- It determines who is eligible to submit ownership claims for land and what minimal compensation they can receive;
- Sets planning arrangements for permanent Arab Bedouin settlement within a clearly demarcated area in the Naqab;
- Establishes a socio-economic development plan for existing recognized towns to absorb the displaced population.

According to the proposed bill, only those Arab Bedouin who registered their land with the State before 24 October 1979 are eligible to receive compensation. The Law distinguishes between Arab Bedouin who currently live on their ancestral land, and those who were forcibly expelled from their land following the establishment of the state in 1948. The Arab Bedouin who currently reside on and control their ancestral land will be offered one half of their land so long as the land is not grazing land, and on the condition that the claimant fully relinquishes the initial half to the State of Israel.⁴⁹ Arab Bedouin who are not presently living on their ancestral lands will receive minimal monetary compensation for only 50 percent of their land claim at rates proposed in the plan (rather than market rate), with an opportunity to exchange the money for a residential plot of land in one of the severely impoverished and marginalized government-planned townships in the Naqab.⁵⁰ Most alarmingly, if Arab Bedouin land

⁴⁸ Dr. Thabet Abu Rass, “The Arab Bedouin in the Unrecognized Villages in the Naqab (Negev): Between the Hammer of Praver and the Anvil of Goldberg.” *Adalah’s Newsletter*, Vol. 81 April 2011: http://www.adalah.org/upfiles/2011/Thabet_English_2.pdf. If Israel were to apply the criteria for establishing settlements that exist for the Jewish rural sector, all 36 unrecognized Arab Bedouin villages would be granted official status. The new criteria first proposed by the Goldberg Committee and adopted by the Praver Committee reveal enormous discrepancy in the treatment and evince a strong discriminatory component, quite contrary to the state’s claimed aspirations of “consistent and egalitarian policy.”

⁴⁹ Government Decision, ‘Confirming the Praver Plan,’ pp. 9, 19. All references to this Government Decision have been translated and included in Adalah’s detailed overview and analysis of the Praver Plan, <http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>

⁵⁰ Government Decision, ‘Confirming the Praver Plan,’ p. 9

ownership claims are not settled within five years according to the process proposed by the Praver Plan, the land will automatically be registered as state land.⁵¹

The Law proposes the extraordinary involvement of the Prime Minister's Office in land planning issues, instead of the regular body authorized to deal with land planning issues, the National Council for Planning and Building (NCPB). This aspect of the bill would give the Prime Minister's Office broad and arbitrary discretion to remove any amount of land from the above-described arrangement.^{52, 53} Both the EU and the UN have expressed concern about the Plan, with UN CERD calling for the withdrawal of the proposed "Praver Plan Law" in March 2012 on the grounds that it was discriminatory.⁵⁴ Adalah and ACRI submitted an objection to the bill on 1 April 2012.⁵⁵ However, implementation of the plan has already begun with the approval of consecutive government decisions to displace thousands of Arab Bedouin;⁵⁶ increasing home demolitions; and establishing a "specialized police force" to implement and enforce the recommendations of the Praver Plan that, according to media reports, is set to begin work on 1 August 2012.⁵⁷

Adalah supports the recommendation of Mr. James Anaya, the UN Special Rapporteur on the rights of indigenous peoples, that Israel enable the Arab Bedouin to "become active participants in and direct beneficiaries of any development initiatives affecting the lands the Bedouin traditionally use and occupy within the Negev."⁵⁸ Adalah believes that Israel should rescind its decision to approve the Praver Plan and begin to right the historical wrongs committed against the Arab Bedouin by engaging in a meaningful dialogue with the Arab Bedouin and the leaders of the Arab citizens of Israel, and recognizing the unrecognized villages and traditional Arab Bedouin land ownership in the Naqab.

⁵¹ Government Decision, 'Confirming the Praver Plan,' p. 30, Article 3.1. See also Ehud Praver, *A Report of the Intergovernmental Committee on the Implementation of the Recommendation for Regulation of the Bedouin Settlement in the Negev*, Meeting No. 117, 11 September 2011.

⁵² Government Decision, 'Confirming the Praver Plan,' p. 30.

⁵³ Ehud Praver, *Draft 12 – Implementation Team of the Goldberg Report for Regulating Bedouin Settlement in the Negev: A Proposed Outline for Regulating Bedouin Settlement in the Negev*, March 2011.

⁵⁴ See UN CERD, Concluding Observations of 2012, para. 20 (CERD/C/ISR/CO/14-16), 9 March 2012: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf>. See also, European Commission, "Implementation of the European Neighborhood Policy in Israel Progress in 2011," 15 May 2012. Available at: http://ec.europa.eu/world/enp/docs/2012_enp_pack/progress_report_israel_en.pdf.

⁵⁵ See Adalah's Press Release "Praver Plan Grossly Violates the Rights of the Arab Bedouin in the Unrecognized Villages and Must Be Cancelled," 1 April 2012: http://www.adalah.org/eng/pressreleases/1_4_12.html. The objection is available in Hebrew at: <http://www.adalah.org/upfiles/Letter%20to%20begin%20final%204-2012.pdf>

⁵⁶ See Adalah's Press Release "Adalah and Bimkom Demand Cancellation of Yatir Forest Plan in the Naqab." 30 December 2011: http://www.adalah.org/eng/pressreleases/30_12_11.html; See also, Adalah's Press Release "Adalah, Bimkom, the RCUV and Arab Bedouin Living in the Naqab File Objection to Plans for Israeli Army "Intelligence City"" 25 March 2012: http://www.adalah.org/eng/pressreleases/25_3_12_1.html

⁵⁷ See Ha'aretz, "Israel police establishes unit to enforce demolition of Bedouin homes." 17 April 2012, <http://www.haaretz.com/news/national/israel-police-establishes-unit-to-enforce-demolition-of-bedouin-homes-1.424805>

⁵⁸ *Report by the Special Rapporteur on the rights of indigenous peoples, James Anaya, A/HRC/18/35/Add.1*, para. 21, 22 August 2011: <http://www2.ohchr.org/english/issues/indigenous/rappporteur/docs/A-HRC-18-35-Add-1.pdf>

7. Lack of Access to Water in the Unrecognized Villages

Articles 6, 26, 27

In the Naqab, Israel is deliberately not providing thousands of Arab Bedouin families with access to clean drinking water due to the unrecognized status of their villages.⁵⁹ 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.⁶⁰ The poor quality of their drinking water puts residents at risk of dehydration, intestinal infections and other diseases associated with poor hygiene, such as dysentery.⁶¹

The State of Israel is using the denial of clean, running drinking water as a means of forcing the residents of the unrecognized Arab Bedouin villages to abandon their lands and relocate to the government-planned townships. For ten years, Adalah has been litigating before the courts, demanding equal access to clean, drinking water for Arab Bedouin citizens living in the unrecognized villages. On 5 June 2011, the Supreme Court issued a precedent-setting ruling, enshrining the right to water as a constitutional right stemming from the right to dignity.⁶² However, the court also ruled that Arab Bedouin citizens living in the unrecognized villages were only entitled to “minimal access” to water,⁶³ arguing that the long-term solution is the relocation of Bedouin citizens to recognized townships, despite the problems and injustices already presented above.

Nonetheless the court found that three of the six villages included in the petition merited being connected to a water supply. Following the ruling, Adalah sent an application to the Israeli Water Board demanding that these three unrecognized villages named by the Supreme Court should be immediately connected to public water network.⁶⁴ The Water Board denied the application for each village, stating that two other solutions existed to ensure access to water for the residents: either they should move from the unrecognized villages to recognized towns, or purchase water tanks and fill them from water connection centers in the recognized towns.⁶⁵

⁵⁹ During litigation on Adalah’s petition against the denial of water to the unrecognized villages, the Water Tribunal stated in its interim decision that the right to water can be made conditional given a “clear” public interest, such as “not to encourage cases of additional illegal settlement” by Arab Bedouin. Haifa District Court Appeal 609/05, Abdallah Abu Musa’ed, et al. v. Water Commissioner (Haifa District Court) (appeal dismissed 13 September 2006). See Adalah’s Press Release, 27 September 2006: http://www.adalah.org/eng/pressreleases/pr.php?file=06_09_27.

⁶⁰ 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=¤tPic=2>

⁶¹ Expert Opinion of Prof. Michael Alkan, Director of the Institute for Infectious Diseases, the Soroka Medical Center and the Faculty of Health Sciences, Ben-Gurion University, 2005, commissioned by Adalah (Hebrew).

⁶² See C.A. (Civil Appeal) 9535/06, Abdullah Abu Musa’ed, et al. v. The Water Commissioner and the Israel Land Administration (decision delivered 5 June 2011). Decision available in English at: <http://www.adalah.org/upfiles/2012/Supreme%20Court%20Ruling,%20Civil%20Appeal%20No.%209535.06%20-%20Abu%20Masad,%20Right%20to%20Water%20-%20English.pdf>.

⁶³ See also, Adalah News Update, 6 June 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=06_06_11

⁶⁴ See Adalah, “Adalah Asks Water Board to Implement Supreme Court Decision and Immediately Connect Three Unrecognized Arab Bedouin Villages in the Naqab to the Water Network,” 15 June 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=15_06_11

⁶⁵ This correspondence is on file with Adalah.

Adalah filed an appeal against the Water Board's decision to the Haifa District Court⁶⁶ sitting as a Water Tribunal, on behalf of residents from Umm el-Hieran and Tel Arad, two Arab Bedouin unrecognized villages.⁶⁷ The Water Tribunal rejected the appeal in January 2012, even though Umm el-Hieran residents must travel more than eight kilometers to the nearest water access point. There, they purchase water from a private citizen at rates considerably higher than they would pay if they were connected to the national water system. The Haifa District Court had explicitly cited eviction notices against the village as a justification for denying access to water, ignoring the Supreme Court's ruling which declared that minimal access to water was constitutionally guaranteed, regardless of the status of the village. On 27 March 2012, Adalah appealed to the Supreme Court; the case is pending.⁶⁸

In denying access to water to Arab Bedouin citizens and refusing to implement judgments of the judiciary, the state is failing to uphold the right to life, the right to dignity, and the principle of equal protection of the law. Israel must extend full access to clean drinking water to Arab Bedouin citizens of the state living in the unrecognized villages.⁶⁹

8. Violations of the Right to Freedom of Opinion, Expression and Association

Articles 19, 22, 27

Since the beginning of the Netanyahu-Lieberman government in 2009, Israel has escalated its attacks on expression of dissenting opinions. New legislation has been proposed and passed which criminalizes or imposes sanctions on legitimate and non-violent political expression and association. Frank La Rue, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, highlighted several such "restrictive bills" in a recent statement declaring they "contravene international standards on the right to freedom of expression and opinion".⁷⁰

Anti-Boycott Law

On 11 July 2011, the Knesset passed the Anti-Boycott Law, seriously harming freedom of expression and freedom of association.⁷¹ The law prohibits the public promotion of boycott by Israeli citizens and organizations against Israeli institutions and the illegal Israeli settlements in the OPT.

The law defines public boycott as a new type of 'civil wrong' or tort. It will enable settlers or other parties targeted by boycotts to sue anyone who calls for boycott, and the court may award

⁶⁶ Appeal 51011-09/11, Salim Abu al-Qi'an, et al. v. Water Committee, et al.

⁶⁷ See Adalah, "Adalah Appeals to Water Tribunal to Connect Arab Bedouin Unrecognized Villages in the Naqab to the Water Network," 26 September 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=26_09_11

⁶⁸ C.A. (Civil Appeal) 2541/12 -Salib Abu al-Qi'an vs. The Government Authority for Water and Sewage. See Adalah's Press Release, 29 March 2012. http://www.adalah.org/eng/pressreleases/29_3_12.html

⁶⁹ HRC Concluding Observations of 2010, para. 24 (CCPR/C/ISR/CO/3). See also HRC Concluding Observations of 1998, para. 14 (CCPR/C/79/Add.93). See also CERD Concluding Observations of 2007, para. 25 (CERD/C/ISR/CO/13); CESCR Concluding Observations of 2003, para. 16, 27, 43 (E/C.12/1/Add.90); CESCR Concluding Observations of 1998, para. 26, 28, 32, 42 (E/C.12/1/Add.27); CEDAW Concluding Observations of 2011, para. 44 (CEDAW/C/ISR/CO/5).

⁷⁰ Frank La Rue, "Statement by the UN Special Rapporteur," 18 December 2011.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11727&LangID=E>

⁷¹ An unofficial translation of the law is available here: www.adalah.org/upfiles/2011/boycott_law.pdf.

compensation including punitive damages, even if no actual damage is caused to the boycotted parties. Further, the law will revoke tax exemptions and other legal rights and benefits from Israeli individuals and groups, as well as academic, cultural and scientific institutions that receive any state support, if they engage in boycott.⁷²

Israeli businesses and industries will also be penalized by the law, if they work with the Palestinian Authority and Palestinian companies and accept their conditions that exclude trade with businesses that also trade with settlements. A recent example of this is the plan to build the new Palestinian city of Rawabi. Israeli contractors wishing to participate have been asked by Palestinians to refrain from also doing business with settlements.⁷³ The law seeks to penalize such contractors and may in effect deter Israeli businesses from trading with Palestinian businesses more generally.

On 11 March 2012, Adalah and ACRI petitioned the Supreme Court against the law on behalf of leading human rights organizations in Israel as well as groups directly affected by the law; the case is currently pending.⁷⁴ Responding to the law, UN Special Rapporteur on freedom of opinion and expression, Frank La Rue, defended boycott as “a form of expression that is peaceful, legitimate and internationally accepted.”⁷⁵

The Nakba Law

The Nakba Law, enacted on 22 March 2011, joins the recent wave of discriminatory laws which conspicuously target the rights of the Arab minority. The law authorizes the Minister of Finance to reduce funding or support provided by the state to an institution if it holds an activity that contradicts the definition of the State of Israel as a “Jewish and democratic” state, or that commemorates “Israel's Independence Day or the day on which the state was established as a day of mourning.”⁷⁶ The law risks undermining the financial viability of cultural and educational institutions, and will disproportionately affect those institutions that serve the Arab community, since it is Arab citizens who commemorate the Nakba. The Nakba is an integral part of Palestinian history and culture. Efforts to erase its memory are therefore a clear violation of Israel's duty not to deny minorities the right to “enjoy their own culture” under Article 27 of ICCPR.

Adalah and ACRI submitted a petition against the law on 4 May 2011.⁷⁷ On 5 January 2012, the Supreme Court rejected the petition, arguing that the case is premature as the law has not yet been used against any party.⁷⁸ This ruling ignores the chilling effect on freedom of expression, as institutions limit free

⁷² See a joint statement issued by Adalah, PCATI, PHR-I, Coalition of Women for Peace:

http://www.adalah.org/upfiles/2011/12_July_2011_antiboycott.pdf

⁷³ See Adalah's Press Release, 12 July 2011: http://www.adalah.org/upfiles/2011/12_July_2011_antiboycott.pdf.

⁷⁴ HCJ 2072/12, *The Coalition of Women for Peace, et al v. The Minister of Finance, et al.* (case pending). See Adalah's Press Release of 12 March 2012: http://www.adalah.org/eng/pressreleases/12_3_12.html

⁷⁵ Statement by the UN Special Rapporteur, 18 December 2011.

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11727&LangID=E>.

⁷⁶ An unofficial translation by Adalah is available at:

http://www.adalah.org/upfiles/2011/discriminatory_laws_2011/Nakba_Law_2011_English.pdf. See Adalah's Press Release of 27 March 2012, http://www.adalah.org/eng/pressreleases/pr.php?file=27_03_11

⁷⁷ HCJ 3429/11, *The Alumni Association of the Arab Orthodox School in Haifa et al. v. The Knesset, et al.* (decision delivered on 5 January 2012). See Adalah's Press Release of 5 May 2011, http://www.adalah.org/eng/pressreleases/pr.php?file=05_05_11

⁷⁸ See Adalah's Press Release of 5 January 2012, http://www.adalah.org/eng/pressreleases/5_1_12.html. The Supreme Court's decision is available here (Hebrew):

<http://www.adalah.org/upfiles/2012/Sup%20Ct%20Nakba%20Law%20Decision%20Hebrew%205.1.2012.pdf>

speech to prevent financial penalty. In May 2011, Tel Aviv University administrators informed the organizers of an upcoming event, 'Memorializing the Nakba,' that it would not automatically fund security for the event because of the Nakba Law. At Haifa University, administrators cancelled an artistic and political event to commemorate the Nakba. Permission was eventually granted two days before the event, but limitations were imposed on the organizers, including a prohibition on distributing flyers that mention the word Nakba. On the day of the event, the University again withdrew permission for the event to proceed, before revising the decision to allow the event to take place one week later. Mohammad Khalila, one of the student organizers, was informed in a meeting in the Dean's Office that the University was under pressure from the Education Minister Gideon Sa'ar.⁷⁹ Adalah submitted a legal letter to the Education Minister and Chairman of the Knesset's Educational Committee on 14 May 2012⁸⁰; a second urgent letter was delivered to the President of Haifa University on 16 May 2012.⁸¹

NGO Foreign Funding Bills⁸²

The rhetoric used by Israeli government officials against human rights organizations became increasingly vitriolic since the Committee's last review of Israel. This hostility has been reflected in draconian and anti-democratic legislation which threatens to impose unbearable financial limits and penalties on donations or grants of foreign governmental bodies to human rights organizations in Israel. The bills are a part of a calculated policy to silence voices of dissent and criticism and go hand in hand with attempts to restrict Israel's judicial system, media outlets and activists.

Two bills were approved by the Ministerial Committee on Legislation on 13 November 2011.⁸³ the Akunis bill⁸⁴ and the Kirshenbaum bill.⁸⁵ According to the former bill, an Israeli NGO that seeks to influence state policies would not be allowed to receive donations of more than NIS 20,000 (roughly \$6000). The latter bill would amend the Income Tax Order so that funding from foreign state entities to Israeli NGOs will be subject to a 45% taxation rate. Following international critique of these bills, Prime Minister Netanyahu 'froze' the bills. The respite was short-lived, as politicians revived the bills within days.⁸⁶

The latest proposed bill combines elements of the two earlier versions and adds new restrictions.⁸⁷ If passed, this amendment to the Israeli Associations Law and the Israeli Income Tax Ordinance would

⁷⁹ For additional information on these events, see Adalah's Press Release of 16 May 2012:

<http://www.adalah.org/eng/?mod=articles&ID=1770>

⁸⁰ The letter is available in Hebrew at: <http://www.adalah.org/upfiles/Letter%20to%20EDU%20committee.pdf>

⁸¹ The letter is available in Hebrew at: <http://www.adalah.org/Up/Main/File/Letter%20to%20Haifa%20Uni..pdf>

⁸² An unofficial translation by ACRI is available at:

<http://www.acri.org.il/en/wp-content/uploads/2011/12/AkounisKirshenbaumhybrid.pdf>

⁸³ See Adalah's Press Release of 10 November 2011: http://www.adalah.org/eng/pressreleases/10_11_11.html

⁸⁴ The Associations Law (Amendment – Banning Foreign Diplomatic Entities' Support of Political Associations in Israel). An unofficial English translation is available here: <http://www.acri.org.il/en/wp-content/uploads/2011/06/Akunis-Fiscal-Limitations-on-Foreign-Funding-to-NGOs-ENG-June202011.doc>

⁸⁵ Bill for amendment of the Income Tax Order (Taxation of public institutions that receive donations from a foreign state entity) – 2011." An unofficial English translation is available here: <http://www.acri.org.il/en/wp-content/uploads/2011/07/Kirshenbaum-Income-Tax-ENG.doc>

⁸⁶ See Adalah's Press Release of 29 November 2011: http://www.adalah.org/eng/pressreleases/29_11_11.html

⁸⁷ JNews, "New bill restricting foreign funding to Israeli NGOs back on agenda," 1 December 2011: <http://www.jnews.org.uk/news/new-bill-restricting-foreign-funding-to-israeli-ngos-back-on-agenda>. An English translation of the bill is available on this page.

prohibit foreign public funding of Israeli organisations that 'negate the existence of the State of Israel; incite to racism; support armed struggle against the State of Israel; support indictment of elected officials and IDF soldiers in international courts; call for refusal to serve the IDF and support a boycott of the State of Israel or its citizens'. The bill divides NGOs into three categories: 1) Those that will be completely banned from receiving foreign funding (if they are deemed to be “political organizations”); 2) Those that are not “political organizations” but do not receive funding from the Israeli government and so must pay a 45% tax on foreign funding; and 3) Those that do receive (or have received) funding from the government of Israel who can continue to receive foreign funding. The bill was frozen in December 2011, following harsh international criticism. The European Union, in May 2012, called on Israel to “reverse the trend of deteriorating conditions for the functioning of a vibrant civil society” and condemned discriminatory as it tends to “antagonise relations with the Arab minority [and] complicate the space in which civil society organisations of one side of the political spectrum operate.”⁸⁸

9. Infringements on the Right to Political Participation

Articles 19, 21, 22, 25, 26

Under Article 25 of the ICCPR, every citizen has the right and opportunity “to take part in the conduct of public affairs, directly or through freely chosen representatives.” Despite Israel’s ratification of the convention, the political leadership of the Arab minority faces sustained and severe attacks and harassment. Arab elected representatives (Members of Knesset or MKs) have been stripped of their parliamentary privileges, had their immunity lifted, and are facing various criminal indictments for their legitimate and protected political activity. Adalah is representing Arab MKs Sa’id Naffaa, Mohammed Barakeh, Haneen Zoabi, and Ahmad Tibi. Information on each of these cases is included below.

These attacks violate the right of the Arab minority to genuine political participation (Article 25); the freedoms of opinion and expression (Article 19); the rights to free association and peaceful assembly (Articles 21 and 22); and the right to equal protection of the law and non-discrimination before the law (Article 26).

MK Sa’id Naffaa

MK Sa’id Naffaa is a member of the National Democratic Assembly – Balad, and has been an MK since April 2007. On 26 January 2010, the Knesset House Committee voted to revoke his parliamentary immunity in order to allow the Attorney General to criminally indict him in connection with a visit he made to Syria in 2007.⁸⁹ Five years ago, MK Naffaa arranged for a group of 280 Arab Druze religious clerics to make a pilgrimage to holy sites in Syria after they were repeatedly refused a permit by the Interior Minister. Syria is classified as an “enemy state” under Israeli law.

On 26 December 2011, the Attorney General submitted an indictment against MK Naffaa to the Nazareth District Court on charges of “illegally traveling to an enemy country” and assisting in organizing

⁸⁸ European Commission, “Implementation of the European Neighbourhood Policy in Israel Progress in 2011,” 15 May 2012; pp. 2-3. Available at:

http://ec.europa.eu/world/enp/docs/2012_enp_pack/progress_report_israel_en.pdf

⁸⁹ See Adalah’s Press Release of 28 January 2010, www.adalah.org/eng/pressreleases/pr.php?file=28_01_10

a visit to an enemy state.⁹⁰ These charges fall under the “Emergency Regulations (Foreign Travel) – 1948,” a law which clearly violates democratic principles. The prosecution also charged MK Naffaa with the vague security offense of “contact with a foreign agent,” alleging that he met with Palestinian political leaders whom Israel considers to be heads of “terrorist organizations.” This latter charge carries a maximum sentence of fifteen years in prison. MK Naffaa has strongly denied this allegation.

Adalah and MK Naffaa maintain that the charges fall well within the scope of parliamentary immunity, and that they constitute political persecution.⁹¹ The next hearing is scheduled for 28 June 2012.

MK Mohammed Barakeh

MK Mohammed Barakeh is the Head of the ‘Democratic Front for Peace and Equality,’ (*al-Jabha or Hadash*); he has been an elected MK 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 often mediates between protesters and the police. MK Barakeh has been injured by members of the security forces while participating in other demonstrations. However, despite submitting complaints to the authorities, no police officer or commander were ever prosecuted for these assaults.⁹²

The Inter-Parliamentary Union’s (IPU) Committee on the Human Rights of Parliamentarians affirmed in March 2010 that leading and participating in demonstrations was an integral part of the parliamentary mandate. It noted its concern that the charges were brought against MK Barakeh years after the events, and that complaints filed on his behalf against persons who attacked him and other protestors had not been properly investigated and/or no prosecutions had been initiated.⁹³

At a court hearing on 26 October 2011, the Tel Aviv Magistrates’ Court dismissed two of the four charges against him, following motions and legal arguments by Adalah. The charges were dropped during the preliminary proceedings in the case, before any substantive examination of the charges. This strongly suggests that the indictment is weak.

The latest hearing took place on 18 April 2012. During these evidentiary hearings, Israeli soldiers testified that they were sent to one of the demonstrations in question disguised as Arabs to act as *agents provocateur*: throwing stones in order to create a pretext for other troops to deploy teargas and make arrests. This is a clear example of the illegal use of force by the police, and challenges the credibility of the claim that MK Barakeh assaulted any state security personnel.⁹⁴ The next hearings on the case are scheduled for September 2012.

⁹⁰ Nazareth District Court Criminal Case 47188-12-11, *State of Israel v. Sa'id Naffaa (case pending)*. See Adalah’s Press Release of 28 December 2011, http://www.adalah.org/eng/pressreleases/28_12_11.html

⁹¹ Additional information on the case proceedings is available in Adalah’s Press Release of 31 January 2012, http://www.adalah.org/eng/pressreleases/31_1_12.html

⁹² See, for example, “Urgent Intervention on Behalf of MK Barakeh Demanding Criminal Investigation into Security Forces Personnel who Assaulted Anti-Wall Demonstrators,” 29 April 2005. http://www.adalah.org/eng/pressreleases/pr.php?file=05_04_29

⁹³ Inter-Parliamentary Union (IPU) communication, on file with Adalah.

⁹⁴ See Adalah’s Press Release of 17 April 2012, http://www.adalah.org/eng/pressreleases/17_4_12.html. Also, see coverage of the proceedings in Ha’aretz, “Undercover Israeli combatants threw stones at IDF soldiers in West

MK Haneen Zoabi

MK Haneen Zoabi was elected to the Knesset in 2009 as a member of the National Democratic Assembly–Balad political party. She is the first woman to be elected as a representative of an Arab political party. Adalah is representing MK Zoabi in two pending cases: (i) a petition submitted to the Supreme Court on her behalf challenging the Knesset’s revocation of some of her parliamentary privileges, and (ii) as a respondent to a petition filed by an extreme-right wing MK demanding that the Attorney General criminally indict MK Zoabi for various offenses.

The Knesset revoked certain of MK Zoabi’s parliamentary privileges following her participation in the Gaza Freedom Flotilla in May 2010. Additionally, Interior Minister Eli Yishai instructed Attorney General Yehuda Weinstein to look into the possibility of revoking Zoabi’s citizenship.⁹⁵ On 7 November 2010, Adalah and ACRI submitted a petition to the Supreme Court against the Knesset’s decision, on behalf of MK Zoabi.⁹⁶ On 26 April 2011, the Supreme Court ordered the Knesset to explain its decision to revoke her privileges within 30 days.⁹⁷ In October 2011, the court decided to expand the panel to seven justices. On 5 June 2012, a hearing was held. The case remains pending.

Revoking MK Zoabi’s privileges (concerning overseas travel and legal fees if her immunity is revoked for the purpose of criminal prosecution) creates a dangerous precedent that allows the majority to “punish” minority representatives for political activity with which they disagree. It also completely contradicts the primary purpose of parliamentary immunity, which is to protect the right to political action of all parliamentary representatives on an equal basis. In July 2010, the IPU Committee on the Human Rights of Parliamentarians issued a statement of concern regarding the Knesset’s decisions:

“[The IPU] considers that, in revoking these parliamentary privileges, the Knesset punished Ms. Zoabi on account of her having exercised her freedom of speech by expressing a political position through her participation in the Gaza-bound convoy; considers punishment for the expression of a political position to be unacceptable in a democracy, and emphasizes that, on the contrary, democracy requires and indeed thrives on the expression and debate of different views, necessarily including those critical of government policies.”⁹⁸

The Attorney General decided to close all criminal files against citizens of Israel tied to the Gaza Freedom Flotilla, including that of MK Zoabi, on 22 December 2011.⁹⁹ Immediately following this decision, right-wing MK Michael Ben Ari and right-wing activist Itamar Ben Gvir petitioned the Supreme

Bank’.” <http://www.haaretz.com/news/diplomacy-defense/undercover-israeli-combatants-threw-stones-at-idf-soldiers-in-west-bank-1.428584>

⁹⁵ Ynet, “Interior Minister: Look into revoking MK Zoabi’s citizenship,” 3 June 2010. <http://www.ynetnews.com/articles/0,7340,L-3898874,00.html>

⁹⁶ HCJ 8148/10, *MK Haneen Zoabi v. The Knesset* (case pending); and Adalah, “Supreme Court Hears Petition against Revocation of MK Haneen Zoabi’s Parliamentary Privileges; Critiques Attorney General’s Failure to Attend,” 28 March 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=28_03_11

⁹⁷ See Adalah, “Israeli Supreme Court Orders Knesset to Explain Decision Revoking Parliamentary Privileges of MK Haneen Zoabi,” 27 April 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=27_04_11;

⁹⁸ See *Inter-Parliamentary Union*, CASE No. IL/04 – Haneen Zoabi – Israel, 12-15 July 2010: <http://www.adalah.org/newsletter/heb/jul10/docs/IPU.pdf>

⁹⁹ See Adalah’s translation of the decision: http://www.adalah.org/eng/pressreleases/22_12_11_2.html

Court to demand that the Attorney General file a criminal indictment against MK Zoabi.¹⁰⁰ This second petition, after the investigation was closed, is a clear demonstration of the persistent incitement by the right-wing against Arab political leaders. The next hearings in this case is scheduled for 24 September 2012.

MK Dr. Ahmad Tibi

MK Dr. Ahmad Tibi is an elected MK from the Ra'am-Ta'al political party. He has served in the Knesset continuously since 1999. In July 2011, Adalah petitioned the Supreme Court on behalf of MK Tibi to challenge a decision by the Knesset Presidium, including MK Reuven Rivlin, Speaker of the Knesset, and the Deputy Speakers, to prohibit discussion of a bill that MK Tibi had authored.¹⁰¹ The bill proposed by MK Tibi would have amended the recent "Nakba Law,"¹⁰² by authorizing the Finance Minister to cut state funding to bodies that engage in a "*public denial of the Nakba* as a historic event, which constitutes a real disaster of the Palestinian people, including the Arab minority in Israel." The Presidium disqualified the bill on the grounds that it negates the definition of Israel as a Jewish state.

The refusal to allow the introduction of the proposed amendment to the "Nakba Law" is the first case in the history of the Knesset to reject a bill based on Section 134 (c) of the Knesset regulations that allow the Presidium to disqualify a bill before it is debated, if it denies the existence of Israel as a Jewish state. The petition argued that, "this section [of the Knesset regulations] is extremely problematic as it violates basic rights and especially the right to equality and freedom of expression of parliamentarians." It is important to note that while MK Ahmad Tibi does believe in a 'state for all of its nationalities', the bill in question does not address this issue; rather, it focuses on respecting the historical narrative of the Arab minority. The decision to reject the bill so summarily is therefore a radical misuse of the Knesset's power, Adalah argued.¹⁰³ The next hearing on the case is scheduled for 20 June 2012.

10. Violations of the Freedom to Choose One's Residence

Articles 2, 12, 26

The Admission Committees Law – 2011¹⁰⁴

This law, passed on 22 March 2011, grants 'admission committees' full discretion to accept or reject individuals seeking to move to a given a community. Admissions committees operate in approximately 700 agricultural and small 'community towns,' which are built on state land all across the country. Many

¹⁰⁰ See HCI 9733/11, *Ben Ari et al v. Attorney General et al.* (case pending). See also, Adalah, "Adalah Reveals: Israeli Military Order Prohibiting Ships and Individuals from Entering Gaza was Issued after the Gaza Freedom Flotilla Set Sail; Disclosure Comes in Response to Supreme Court Petition Demanding the Criminal Indictment of MK Zoabi for her Participation in the Flotilla, 15 February 2012.

¹⁰¹ Adalah's English translation of the petition is available at:

<http://www.adalah.org/upfiles/Translation%20of%20Nakba%20Denial%20Petition%20English%20final.pdf>

¹⁰² See *Id.* above at page 17.

¹⁰³ See Adalah's Press Release of 21 July 2011, http://www.adalah.org/eng/pressreleases/pr.php?file=21_07_11

¹⁰⁴ The formal title of this law is the "Law to Amend the Cooperative Societies Ordinance (No. 8), 5771-2011." An English translation of the law is available at:

http://www.adalah.org/upfiles/2011/discriminatory_laws_2011/Admissions_Committees_Law_2011_English.pdf.

The original Hebrew version of the law can be found at: <http://www.knesset.gov.il/Laws/Data/law/2286/2286.pdf> (pp. 683-686).

such towns are located in the Naqab and Galilee, where there is a large Arab minority population. These towns account for 68% of all towns and villages in the state, and 84% of all rural towns and villages.¹⁰⁵ Admissions committees are used to *de facto* preclude Arab citizens, as well as other marginalized groups, from living in these towns.

Under the law, one of the five members of an admissions committee must be “a representative of the Jewish Agency or the World Zionist Organization.”¹⁰⁶ While the law includes a provision that requires admission committees to respect the right to equality and prevent discrimination, the committees easily circumvent this requirement by rejecting applications on the grounds of the applicants being “unsuitable to the social life of the community... or the social and cultural fabric of the town.” The Israel Land Administration (ILA) originally instituted the arbitrary and exclusionary criterion of “social suitability”¹⁰⁷ in order to bypass the landmark Supreme Court decision in the **Ka’adan** case from 2000,¹⁰⁸ in which the court ruled that the state’s use of the Jewish Agency to exclude Arab citizens from state land constituted illegal discrimination on the basis of nationality.

The new law also authorizes individual admission committees to adopt criteria specific to their community towns, based on their “special characteristics.” Towns with a self-declared “Zionist vision” are permitted to instruct admission committees to select or reject residents based on that vision. Adalah filed a petition to the Supreme Court against the Admission Committees Law on 30 March 2011,¹⁰⁹ on behalf of a wide coalition of civil society groups.¹¹⁰ International human rights organizations and the UN CERD have expressed particular concern over its enactment.¹¹¹

In a significant legal breakthrough, on 13 September 2011, the Israeli Supreme Court accepted in part a petition filed by Adalah in 2007,¹¹² on behalf of Fatina and Ahmed Zubeidat, a married Arab couple who were rejected from the community town of Rakefet as “socially unsuitable”. After years of litigation, the Court upheld an extraordinary decision of the ILA and ordered the town to award a plot of land in

¹⁰⁵ Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2011*, No. 62, Table 2.9. The Admissions Committees Law authorizes “admission committees” to operate in around 440 agricultural and small community towns built on state land in the Naqab and Galilee. These communities together comprise 75% of the total number of towns and villages in the Naqab and Galilee, and 86% of rural towns and villages in these areas.

¹⁰⁶ The other four members are, “two representatives of the community town; a representative of the movement with which the community town is affiliated or in which it is a member, and if the community town is not affiliated with a movement as stated or a member in it, or if the movement waives representation – an additional representative of the community town; [...] and a representative of the regional council under whose jurisdiction the community town is located.” Article 6B(B)(1) of the Admissions Committees Law – 2011.

¹⁰⁷ ILA Council Decision No. 1015 of 1 August 2004 (amended by ILA Council Decision No. 1195 of 15 March 2010).

¹⁰⁸ HCJ 6698/95, *Ka’adan v. The Israel Land Administration, et al.*, P.D. 54(1) 258, (decision delivered March 2000).

¹⁰⁹ HCJ 2504/11, *Adalah, et al. v. The Knesset, et al.* (case pending). See Adalah’s Press Release of 31 March 2011, http://www.adalah.org/eng/pressreleases/pr.php?file=31_03_11

¹¹⁰ The petition was filed on behalf of the Arab Center for Alternative Planning, Mizrahi Democratic Rainbow, Bimkom: Planners for Planning Rights, Another Voice in the Galilee, and the Jerusalem Open House for Pride and Tolerance

¹¹¹ ACRI also submitted a petition against the new law. See Human Rights Watch, “*Israel: New Laws Marginalize Palestinian Arab Citizens*,” 30 March 2011: <http://www.hrw.org/news/2011/03/30/israel-new-laws-marginalize-palestinian-arab-citizens>. UN CERD Concluding Observations of 2012, para. 11 (CERD/C/ISR/CO/14-16).

¹¹² HCJ 8036/07, *Fatima Ebriq Zubeidat, et al. v. The Israel Land Administration, et al.* (decision delivered 13 September 2011).

Rakefet to the Zubeidats within 90 days.¹¹³ In its response to the Zubeidats' petition, the Misgav Regional Council (which has jurisdiction over Rakefet and numerous other towns in the north of Israel) stated that the cancellation of admission committees would, "mean the cancellation and negation of the legitimate interest of social coherence, the existence of a community with social solidarity, and the preservation of the Israeli Zionist way of life in the central Galilee."¹¹⁴ It added, "The purpose of pre-settlements [community towns] was to strengthen the Israeli Zionist existence in the central Galilee. The perception was that there is no sovereignty in the Jewish and democratic state without actual settlement that identifies with the principles of such a state and with the Zionist ethos."¹¹⁵ These statements lay bare the exclusionary purpose and character of the admissions committees.

The Jewish National Fund (JNF)

The Jewish National Fund (JNF) is a body with quasi-state authority that operates solely for the interests of the Jewish people and controls 13% of the land of Israel. The JNF plays a major role in the control and distribution of land in Israel through its prominent position and influence in the Israel Land Administration (ILA), and has adopted a clear and public position against the principle of equality in land rights. The JNF's vast land holdings are distributed exclusively to Jews, completely excluding Palestinian citizens of the state. Responding to a Supreme Court petition filed by Adalah against the policies of the ILA,¹¹⁶ the JNF argued that "as the owner of JNF land, the JNF does not have to act with equality towards all citizens of the state," and that, "Its loyalty is to the Jewish people and its responsibility is to it alone."¹¹⁷ Under the Israel Land Administration Law, 6 of 14 seats on the ILA Council are awarded to the JNF.¹¹⁸

On 26 May 2009, the State signed the "Principles of the Agreement between the State and the JNF." Section 2 of the agreement states that the JNF agrees to the administration of its land by a new Lands Authority Council that was meant to reform the ILA and be established in accordance with the government. The Council was established in mid-November 2009 to manage the lands "in a way that will preserve the principles of the JNF in regard to its lands."¹¹⁹ The 13-person Council is comprised as follows: the responsible minister – chairman; seven government representatives from among state employees; and five representatives of the JNF.

Land is the most valuable economic asset in the State of Israel, and also one of the most significant indicators and sources of inequality. Discriminatory land policies that enshrine unequal access to land resources, land rights, and the ability to use the resource of land to develop communities, result in clear violations in the rights of Palestinian Arab citizens of Israel to freely choose their own residence.

¹¹³ See Adalah's Press Releases of 14 September 2011 and 27 July 2010:

http://www.adalah.org/eng/pressreleases/pr.php?file=14_09_11

http://www.adalah.org/eng/pressreleases/pr.php?file=27_07_10_1

¹¹⁴ Article 39 of the response of the Misgav Regional Council in HCJ 8036/07 (Hebrew). On file with Adalah.

¹¹⁵ Article 68 of the response of the Misgav Regional Council in HCJ 8036/07.

¹¹⁶ The ILA is responsible for administering land owned by the JNF.

¹¹⁷ The Jewish National Fund's Response to HCJ 9205/04, *Adalah v. The Israel Land Administration, et al.* (case pending), and HCJ 9010/04, *The Arab Center for Alternative Planning and the Association for Civil Rights in Israel v. The Israel Land Administration, et al.*, para. 250.

¹¹⁸ Immediately after the enactment of the law, the government instituted a temporary measure to reduce the membership of the ILA Council from a total of 14 to 8 members, including two JNF representatives.

¹¹⁹ For more information on the agreement, see Adalah and ACRI's letter to the Attorney General "Re: Land swap agreement between the State of Israel and the Jewish National Fund," 9 July 2009:

http://www.adalah.org/newsletter/eng/jul09/Adalah_ACRI_letter_re_Israel_and_JNF_land_swap_july_2009.pdf



Appendix 1

New Discriminatory Laws and Bills in Israel

Issued June 2011 – Updated June 2012

The elections in February 2009 brought in the current 18th Knesset and saw one of the most right-wing government coalitions in the history of Israel come to power. Members of Knesset (MKs) immediately introduced a flood of discriminatory legislation that directly or indirectly targets Palestinian Arab citizens of Israel, as well as Palestinians in the Occupied Palestinian Territory (OPT) and the Palestinian refugees. These new laws and bills, which continue to arise on a very frequent basis, seek, inter alia, to dispossess and exclude Arab citizens from the land; turn their citizenship from a right into a conditional privilege; undermine the ability of Arab citizens of Israel and their parliamentary representatives to participate in the political life of the country; criminalize political expression or acts that question the Jewish or Zionist nature of the state; and privilege Jewish citizens in the allocation of state resources leading to the widening of social and economic gaps between citizens of the state. Some of the legislation is specifically designed to preempt, circumvent or overturn Supreme Court decisions providing rights protections. Another new trend in the legislation is the state's use of budget allocation in order to limit constitutional rights (e.g., cutting state support to programs based on political or ideological views). Discriminatory state practices and policies against Arab citizens of Israel are not new; they have existed since the establishment of the state. However, under the current government, a large number of these policies are now being legislated into law.

This paper lists 30 main new laws and currently-tabled bills that discriminate against the Palestinian minority in Israel and threaten their rights as citizens of the state, and in some cases harm the rights of Palestinian residents of the OPT. It also documents a series of bills that have been introduced to drastically restrict the foreign governmental funding and activities of human rights organizations; Arab human rights organizations in Israel would be particularly affected by this legislation. While this paper does not cover the entire body of discriminatory legislation currently pending in the Knesset, it lists key bills, including those that have been approved by the Ministerial Committee on Legislation. Adalah is following these troubling developments very closely, and in many cases has filed petitions to the Israeli Supreme Court challenging the constitutionality of these discriminatory laws. This legislative trend that stifles freedom of association and expression, and generally discriminates on the basis of national belonging, unfortunately is an accurate reflection of the public and political discourse in Israel that views Palestinian citizens of the state and their political representatives as threats to the nature of the State. As such, the legislation accompanies a series of criminal indictments and Knesset-instigated punitive measures pursued against Arab Members of Knesset (MKs).

Land and Planning Rights

New Laws:

1. The Israel Land Administration (ILA) Law (2009)

The law, enacted by the Knesset on 3 August 2009, institutes broad land privatization. Much of the land owned by the Palestinian refugees and internally-displaced persons (currently held by the state as “absentees’ property”), some of the lands of destroyed and evacuated Arab villages, and land otherwise confiscated from Palestinian citizens, can be sold off to private investors under the law and placed beyond future restitution claims. This land, which totals an estimated 800,000 dunams, includes refugees’ properties now located in the mixed Arab-Jewish cities and land that has been developed or that is zoned for development in master plans. The new law also gives decisive weight to representatives of the Jewish National Fund (JNF)¹ (6 out of 13 members) in a new Land Authority Council, to replace the Israel Land Administration (ILA), which manages 93% of the land in Israel.

[Position Paper](#) | [Press Briefing](#) | [The Law in Hebrew](#)

2. Amendment no. 3 (2010) to The Land (Acquisition for Public Purposes) Ordinance (1943)

This British Mandate-era law allows the Finance Minister to confiscate land for “public purposes.” The state has used this law extensively, in conjunction with other laws such as the Land Acquisition Law (1953) and the Absentees’ Property Law (1950), to confiscate Palestinian-owned land in Israel. The new amendment, which passed on 10 February 2010, confirms state ownership of land confiscated under this law, even where it has not been used to serve the original confiscation purpose. It allows the state not to use the confiscated land for the original confiscation purpose for 17 years, and prevents landowners from demanding the return of confiscated land not used for the original confiscation purpose if it has been transferred to a third party, or if more than 25 years have elapsed since the confiscation. The amendment expands the Finance Minister’s authority to confiscate land for “public purposes,” which under the law includes the establishment and development of towns, and allows the Minister to declare new purposes. The new law was designed to prevent Arab citizens of Israel from submitting lawsuits to reclaim confiscated land: over 25 years have passed since the confiscation of the vast majority of Palestinian land, and large tracts have been transferred to third parties, including Zionist institutions like the JNF. This law circumvents the Supreme Court’s decision in the *Kirsik* case which obligated the authorities to return confiscated land that has not been used for the original purpose for which it was confiscated.

[Press Briefing](#) | [The Law in Hebrew](#)

3. Amendment no. 4 (2010) to the Negev Development Authority Law (1991): Individual settlements

“Individual settlements” are a tool used by the state to provide individual Jewish Israeli families with hundreds and sometimes thousands of dunams of land for their exclusive use, and keep it out of the reach of Arab citizens of Israel in the Naqab (Negev). There are around 60 individual settlements in the Naqab, stretching over 81,000 dunams. Often, these settlements were established without permits and in violation of planning laws. The amendment, passed in July 2010, provides legal tools for the recognition of all individual settlements in the Naqab, and gives the Negev Development Authority the power to recommend that the Israel Land Administration allocate lands for individual settlements. The amendment followed an Israeli Supreme Court ruling in June 2010 that allowed for the recognition of individual settlements in the Naqab covered by the “Wine Path Plan.” The court delivered the ruling on a petition filed against the Wine Path Plan by Adalah, Bimkom and the

¹ See HCJ 9205/04, *Adalah v. Israel Land Administration (ILA), et al.* (case pending). Adalah submitted a Supreme Court petition in 2004 demanding the cancellation of an ILA policy permitting the marketing and allocation of JNF-controlled lands by the ILA (a state agency) through bids open only to Jewish individuals.

Negev Coexistence Forum in 2006.² While the amendment affords official status to the individual settlements, which have always been provided with all basic services, the neighboring unrecognized Arab Bedouin villages in the Naqab are denied status and their inhabitants, though all citizens of Israel, live without the most basic of services. In its judgment, the court did not address the petitioners' arguments concerning the unequal land distribution and discrimination against the unrecognized villages entailed by the plan.

[Press Briefing](#) | [The Law in Hebrew](#) (pp. 591-593)

4. The Law to Amend the Cooperative Societies Ordinance (no. 8) (2011) (“The Admissions Committees Law”)

Enacted on 22 March 2011, the ‘Admissions Committees Law’ legalizes “admission committees” that operate in nearly 475 small community towns (up to 400 family units) built on state land in the Naqab and Galilee. The law gives admission committees full discretion in accepting or rejecting applicants, thereby controlling who is eligible to live there. The committees are composed of five members, one of whom must be either a representative of the Jewish Agency or the World Zionist Organization. Both institutions are quasi-governmental entities which openly declare that they work exclusively for the benefit of Jewish people. The law allows these committees to reject applicants deemed “unsuitable to the social life of the community... or the social and cultural fabric of the town,” thereby legitimizing the exclusion of entire groups. The ILA instituted the arbitrary and exclusionary criterion of “social suitability” in order to bypass the landmark Supreme Court decision in *Ka’adan* from 2000,³ in which the court ruled that the state’s use of the Jewish Agency to exclude Arab citizens from state land constituted discrimination on the basis of nationality. The law also authorizes admissions committees to adopt criteria determined by individual community towns, based on their “special characteristics”, such as communities which have defined themselves as having “Zionist vision.”

In March 2011, Adalah and ACRI filed petitions to the Supreme Court seeking the cancellation of the law.⁴ In his response to the petitions in January 2012, the Attorney General (AG) asked the Court to dismiss the cases on the grounds that they are premature and theoretical, as the law itself has not been used to bar any applicant from these small communities thusfar. The AG added that the Law permits the towns to screen applicants based on their "suitability to the community" makeup and whether they meet the social-cultural fabric of the town as it currently exists (all Jewish communities). The state also argued that the law forbids exclusion based on race, religion, gender, or nationality. The AG's position is extremely problematic as it justifies discrimination against people who wish to live on public land; these towns compose 46% of all communities in Israel and 65% of all rural communities. This law will inevitably lead to discrimination against Arab citizens, as well as the exclusion of other marginalized groups such as gays, the disabled, single parents, and the Mizrahim.

[Press Briefing 1](#) | [Press Briefing 2](#) | [English translation of the law](#) | [The Law in Hebrew](#) (pp. 683-686) | [Data Paper](#)

² HCJ 2817/06, *Adalah, et al. v. The National Council for Planning and Building, et al.* (decision delivered 15 June 2010) available at: http://www.old-adalah.org/newsletter/eng/jun10/docs/decision2817_06.pdf (Decision in Hebrew). For more information, see Adalah’s Press Briefing, 28 June 2010. http://www.adalah.org/eng/pressreleases/pr.php?file=27_06_10_2.

³ HCJ 6698/95, *Ka’adan v. The Israel Land Administration, et al.*, P.D. 54(1) 258, decision delivered March 2000, available in English at: http://elyon1.court.gov.il/files_eng/95/980/066/a14/95066980.a14.pdf

⁴ HCJ 2504/11, *Adalah, et al. v. The Knesset, et al.* (case pending). The next hearing is scheduled for 6 December 2012. Adalah represented the Zubeidat family in a separate petition, filed to the Supreme Court in 2007, challenge the policy and operation of admissions committees. The Zubeidats, an Arab family, were rejected from living in the community town of Rakevet after the admissions committee disqualified them on the humiliating grounds of “social unsuitability.” In September 2011, following a new decision by the ILA, the Supreme Court ordered Rakefet to admit the Zubeidats. See HCJ 8036/07, *Fatima Ebriq Zubeidat, et al. v. The Israel Land Administration, et al.* See Adalah’s Press Briefing, 14 September 2011. http://www.adalah.org/eng/pressreleases/pr.php?file=14_09_11.

5. Amendment no. 3 (2011) to the Israel Lands Law (1960)

The law, passed in March 2011, prevents any person or party, public or private, from selling land or renting property for a period of more than five years or from bequeathing or transferring private ownership rights in Israel to “foreigners.” Under the law, foreigners are any persons who are not residents or citizens of Israel, or Jews, who have the automatic right to immigrate to Israel under the Law of Return (1950). Under the law, Palestinian refugees – the original owners of the land, who are entitled to the return of and to their properties under international law – are classified as “foreigners,” along with all other persons who do not hold Israeli citizenship or residency, with the exception of Jewish people. In the past, Israeli law had considered the Palestinian refugees as “absentees,” whose property and property rights Israel undertook before the international community as a “custodian” to preserve until the conclusion of a political solution to the conflict between Israel and the Palestinians.⁵

[English translation of the law](#) | [The Law in Hebrew](#) (pp. 754-756)

Pending Bills:

6. The Memorandum of Law for Regulation of the Settlement of the Bedouin in the Negev (2012)

The proposed ‘Praver Plan Bill’ was released on 3 January 2012, following the approval of the report of the government-appointed Praver Committee.^{6,7} The bill, if passed, will lead to the forced displacement of tens of thousands of Arab Bedouin citizens of Israel from their homes and lands in the unrecognized villages. In some cases, Arab Bedouin have been living in these villages since before the State of Israel existed; in other cases the villages were established following the expulsion and relocation of Arab Bedouin by the military government imposed following Israel’s independence. The Bedouin citizen affected by this latest bill will be concentrated in government-planned townships unsuited to their way of life and offered unjust compensation. The bill has three main components: firstly, it determines the eligibility requirements for submitting land ownership claims and receiving compensation, albeit minimal; secondly, it sets planning arrangements for permanent Arab Bedouin settlement within a clearly demarcated area in the Naqab; thirdly, it sets forth a socio-economic development plan for existing recognized towns to absorb the displaced population. After the bill was released, the government initiated a public hearing period supervised by Minister Benny Begin. Adalah and the Association for Civil Rights in Israel (ACRI) submitted a legal objection against the bill in April 2012.

[English summary of the law](#) | [The Bill in Hebrew](#) | [Press Briefing about the objection](#)

⁵ For a commentary on the law, see Adalah Attorneys Haneen Naamnih and Suhad Bishara, “The Law of the Promised Land 2011 – Between Absentees and Foreigners,” Adalah’s Newsletter, Vol. 82, May 2011: http://www.adalah.org/upfiles/2011/Haneen_Suhad_Promised_Land.pdf

⁶ The government approved the recommendations on 11 September 2011. Adalah’s overview and analysis of the recommendations is available at: <http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>

⁷ For all of Adalah’s publications, analysis and documentation regarding the forced displacement of Arab Bedouin citizens, see our Special Report at: <http://adalah.org/eng/?mod=articles&ID=1589>.

Economic, Social and Cultural Rights

New Laws:

7. The Economic Efficiency Law (Legislative Amendments for Implementing the Economic Plan for 2009-2010) (2009)

a. National Priority Areas

One chapter of this law concerns the “National Priority Areas” (NPAs). This law continues to grant the government sweeping discretion to classify towns, villages and areas as NPAs and to allocate enormous state resources to them, even without declaring criteria for or against their inclusion. This section was passed in spite of a landmark Israeli Supreme Court decision delivered in 2006,⁸ where the court ruled unconstitutional a government decision from 1998 which classified 553 Jewish towns and only four small Arab villages as NPAs with “A” status in the field of education.⁹ In June 2010, after four years of non-compliance by the state and additional litigation, Adalah filed a new petition and a motion for contempt of court to the Supreme Court against the Prime Minister,¹⁰ In February 2011, the Supreme Court dismissed the petition after the Attorney General’s office announced that the government was no longer using the prohibited governmental decision, and that the new law did not extend its validity.¹¹

[Press Briefing](#) | [Motion for contempt](#) (Hebrew) | [The Law in Hebrew](#) (pp. 261-264)

b. Child Vaccinations and Child Allowances

A further section of the law stipulates that children who do not receive the vaccinations recommended by the Ministry of Health will no longer be provided with financial support in the form of “child allowances.” This provision mainly affects Arab Bedouin children living in the Naqab (Negev), since most of the children who do not receive the vaccinations belong to this community due to the inaccessibility of health care. The provision therefore discriminates against them on the basis of their national belonging. In 2010, the Ministry of Health closed down “mother and child” clinics in three Arab Bedouin towns which provide these vaccinations and only reopened them after Supreme Court litigation by Adalah.¹² Adalah submitted a petition to the Israeli Supreme Court on 7 October 2010, demanding the annulment of the amendment, which came into effect on 15 December 2010.¹³

[Press Briefing](#) | [Petition in Hebrew](#) | [The Law in Hebrew](#) (p. 211-215)

8. Law to Strip Payments from a Current or Former Member of Knesset due to a Crime (2011)

In February 2011, the Knesset approved the “Law to Strip Payments from a Current or Former Member of Knesset due to a Crime.” Under this law, the Knesset may withhold salary and pensions from current or former MKs declared by the Attorney General to be alleged suspects or defendants

⁸ HCJ 2773/98 and HCJ 11163/03, *The High Follow-Up Committee for Arab Citizens in Israel v. The Prime Minister of Israel*. Decision delivered February 2006, case brought by Adalah. The Supreme Court’s decision is available in English at: http://elyon1.court.gov.il/files_eng/03/630/111/a18/03111630.a18.pdf

⁹ For more information on the earlier litigation, see Adalah’s Press Briefing, 12 March 2006:

http://www.adalah.org/eng/pressreleases/pr.php?file=06_03_12

¹⁰ HCJ 4788/10, *The High Follow-Up Committee, et al. v. The Government of Israel* (case dismissed 2 February 2011).

¹¹ See Adalah Press Briefing, 11 August 2010:

http://www.adalah.org/eng/pressreleases/pr.php?file=24_02_11

¹² HCJ 10054/09, *Wadad El-Hawashly, et al. v. Ministry of Health*. For more information, see Adalah Press Briefing, 24 November 2011: http://www.adalah.org/eng/pressreleases/24_11_11.html.

¹³ HCJ 7245/10, *Adalah v. Minister of Welfare and Social Affairs* (case pending, order to show cause granted). For more information, see Adalah’s Press Briefing of 15 September 2011: http://www.adalah.org/eng/pressreleases/pr.php?file=15_09_11.

or persons convicted of crime that is punishable by at least ten years' imprisonment, and who do not appear at a criminal trial or investigation against them, including for reasons of being outside the country. The alleged crime should have been committed in full or in part during the period in which the suspect or defendant was an MK. The law was drafted in response to the exile of former Arab MK Dr. Azmi Bishara (Balad/Tajammaa), who left Israel in March 2007 after police announced he was suspected of giving information to Hezbollah during the Second Lebanon War. However, the state has never filed an indictment against Dr. Bishara or pointed to any clear evidence against him. These facts indicate the arbitrary nature of the law; even MKs against whom there is no clear evidence could be harmed and lose their pensions.

[The Law in Hebrew](#) (pp. 350-352)

9. Amendment no. 12 (2010) to the Absorption of Discharged Soldiers Law (1994)

According to the law, enacted in July 2010, any registered university or college student who has completed his or her military service and is a resident of a designated "National Priority Area" such as the Naqab, the Galilee or the illegal Jewish settlements in the West Bank will be granted a "compensation package" including: full tuition for the first year of higher academic education; a year of free preparatory academic education; and additional benefits in areas like student housing. This benefits package goes far beyond and adds to the already extensive educational benefits package that is enjoyed by discharged soldiers in Israel. The overwhelming majority of Palestinian Arab citizens of Israel are exempt from military service, and they are thereby excluded from receiving these state-allocated benefits and discriminated against on the basis of their national belonging. This law follows a 2008 amendment (Amendment No. 7)¹⁴ to the same law that anchors the use of the military service criterion in determining eligibility for student dormitories in all higher education institutions into law, and grants broad discretion to these institutions to grant additional economic benefits to discharged soldiers, regardless of the benefits provided to them under any other law.¹⁵

[Press Briefing](#) | | [The Law in Hebrew](#) (pp. 604-606)

Pending Bills:

10. The Rights of those who Performed Military or National Service Bill (2010)

This bill,¹⁶ which passed preliminary reading in the Knesset on 5 July 2010, grants additional benefits to individuals who performed military or alternative national service. These benefits add even more to those already legislated in Amendments No. 7 and 12 to the Absorption of Discharged Soldiers Law, detailed above. The bill relates to a number of benefits, including payment of tuition for higher education, the right to employment, and the right to purchase property or land. For example, under the bill, a person who has served in the military would be entitled to financial support to help cover study at an institute of higher education, and would be exempted from paying fees to the state for a year after completing his or her service. Discharged soldiers and persons who performed alternative national service would also receive assistance in purchasing a first home. In addition, if passed, the bill would provide for plots of land and housing units to be allocated specifically to former soldiers. Under this legislation, the aforementioned benefits are provided based on the premise that military service and alternative national service demonstrate

¹⁴ Amendment no. 7 (2008) to the Absorption of Discharged Soldiers Law (1994). Available at [http://adalah.org/Public/files/English/Legal_Advocacy/Discriminatory_Laws/Absorption_of_Discharged_Soldiers_Law_\(1994\)_Amendment_No_7_Benefits_for_Discharged_Soldiers_\(2008\).pdf](http://adalah.org/Public/files/English/Legal_Advocacy/Discriminatory_Laws/Absorption_of_Discharged_Soldiers_Law_(1994)_Amendment_No_7_Benefits_for_Discharged_Soldiers_(2008).pdf)

¹⁵ The 2008 amendment was passed in order to circumvent a precedent-setting decision by the Haifa District Court, which accepted a petition filed by Adalah on behalf of three Arab students from the University of Haifa. The court ruled that the use of the criterion of military service in determining eligibility for student dormitories discriminates against Arab students. The petition argued that the university is not authorized to add benefits to discharged soldiers that exceed those granted to them by the Absorption of Discharged Soldiers Law. Civil Lawsuit (Haifa District Court) 217/05, *Naamnih et al. v. University of Haifa*, decision delivered August 2006.

¹⁶ Legislative bill no. P/18/2405.

loyalty to the state, which is rewarded through the additional benefits. Since the majority of Arab citizens of Israel are exempted from performing military or national service for historical and political reasons, discriminating against those who do not enlist is an effective proxy for denying benefits to the Arab minority.

[Letter \(Appendix 2\)](#) | [The bill in Hebrew](#)

11. Civil Service Law (Appointments) – Amendment (Affirmative Action) Bill (2009)

Under this bill,¹⁷ which passed preliminary reading on 26 January 2011, persons who have served in the Israeli army or performed alternative national service will be given preferential treatment in hiring for state civil service positions. According to the proposed legislation, if two otherwise equally-qualified persons apply for a civil service position, one of whom performed military or alternative national service and one who did not, preference should be given to the former candidate, regardless of whether the service performed is relevant to the position in question. Thus the bill grants additional benefits to former soldiers, in contradiction to Article 15A(a) of the Civil Service Law (Appointments) – 1959 (as amended in 2000), which stipulates that every governmental minister should ensure adequate representation for the Arab minority in Israel in its offices. The law discriminates against members of the Arab minority, the vast majority of whom do not perform military service for historical and political reasons. Arab citizens of Israel are already underrepresented in the civil service and virtually never promoted to decision-making positions.¹⁸ The Attorney General has announced his opposition to this bill.

[Press Briefing](#) | [Letter to AG](#) | [The bill in Hebrew](#)

Civil and Political Rights

New Laws:

12. The Regional Councils Law (Date of General Elections) (1994) Special Amendment No. 6 (2009)

The law, enacted on 16 November 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 of the establishment of a new regional council. 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 (pop: 25,000) and was established over six years ago. The result of the law is that no elections have been held and local people have no right to elect their own representatives. The current government-appointed council, which is comprised of a majority of Israeli Jewish members and appointed by the Interior Minister, remains in place. On 27 April 2010, Adalah and the Association for Civil Rights in Israel (ACRI) petitioned the Supreme Court of Israel to demand the cancellation of the amendment and ask the court to order the Interior Minister to announce the holding of democratic elections in the regional council immediately.¹⁹ The organizations argued that the law represented a grave infringement of democratic values and the state's duty to ensure regular transparent and democratic elections. At a hearing on the case held in February 2011, the Supreme Court ordered that elections to the Abu Basma Regional Council should be held no later than 4 December 2012.²⁰

[Press Briefing 1](#) | [Press briefing 2](#) | [The law in Hebrew](#) | [Petition in Hebrew](#)

¹⁷ Legislative bill no. P/18/1823.

¹⁸ See Adalah, "[The Inequality Report](#)," March 2011, p. 27

¹⁹ HCJ 3183/10, *Hussein Rafeea, et al. v. The Minister of the Interior, et al.* See Adalah's Press Briefing, 27 April 2010. http://www.adalah.org/eng/pressreleases/pr.php?file=27_04_10

²⁰ See press briefing on the Supreme Court hearing at: http://www.adalah.org/eng/pressreleases/pr.php?file=22_02_11

13. Amendment no. 10 (2011) to the Citizenship Law (1952)

Enacted on 28 March 2011, the law allows courts to revoke the citizenship of persons convicted of treason, espionage, assisting the enemy in time of war, and acts of terrorism as defined under the Prohibition on Terrorist Financing Law (2005), if asked to do so by the Minister of the Interior, as part of a criminal sentence delivered. Citizenship can only be revoked if the defendant has dual citizenship, or resides outside of Israel (in which case the law creates an assumption that such a person has dual citizenship). If a person does not have dual citizenship or reside abroad, then he or she will be granted residency status in Israel instead of citizenship, a downgrading that severely restricts his/her rights to political participation. In 26 October 2010, Adalah wrote to the Chair of the Knesset's Internal Affairs and Environment Committee asking him not to support the law. Adalah argued that the legitimate path for dealing with such alleged crimes is the criminal law, and that the proposed law targeted Arab citizens of Israel and makes their citizenship conditional, in line with the right-wing political rallying cry of "no citizenship, no loyalty." This new amendment follows a prior amendment made to the Citizenship Law in 2008 which provides that citizenship may be revoked for "breach of trust or disloyalty to the state".²¹ The revocation of citizenship is one of the most extreme punitive measures at the disposal of states, and may result in cruel and disproportionate punishment, particularly when pursued against a particular group of citizens.

[Press Briefing](#) | [English translation of the law](#) | [The law in Hebrew](#) (p. 733)

14. Amendment no. 40 (2011) to the "Budgets Foundations Law (1985) - Reducing Budget or Support for Activity Contrary to the Principles of the State" ("The Nakba Law")

The 'Nakba Law', enacted on 22 March 2011, authorizes the Finance Minister to reduce state funding or support to an institution if it holds an activity that rejects the existence of Israel as a "Jewish and democratic state" or commemorates "Israel's Independence Day or the day on which the state was established as a day of mourning." Palestinians traditionally mark Israel's official Independence Day (15 May) as a national day of mourning and organize commemorative events. The law also violates the principle of equality and the rights of Arab citizens to freedom to express their opinion and to preserve their history and culture. On 4 May 2011, Adalah, ACRI, the parents of school children and school alumni filed a petition against the law to the Supreme Court, requesting that it find the Nakba Law unconstitutional. The Supreme Court rejected the petition in January 2012, ruling that the case was premature, as the law had not been used against any specific institution.²²

[Press Briefing 1](#) | [Press Briefing 2](#) | [English translation of the law](#) | [The law in Hebrew](#) | [English excerpts from the petition](#) | [Supreme Court decision](#)

15. Law for Prevention of Damage to the State of Israel through Boycott (2011)

The 'Anti-Boycott Law,' passed on 11 July 2011, prohibits the public promotion of boycott by Israeli citizens and organizations against Israeli institutions or illegal Israeli settlements in the West Bank. It enables the filing of civil lawsuits against anyone who calls for boycott; it creates a new "civil wrong" or tort. The law also provides for the revocation of tax exemptions and other legal rights and benefits from Israeli associations, as well as academic, cultural and scientific institutions which receive state support, if they call for or engage in boycott. The court may also award compensation, including punitive damages, even if no actual damage is proved. Furthermore, the law provides that Israeli businesses, which publicly declare that they would not buy supplies or goods

²¹ See, e.g., Amendment No. 9 (Authority for Revoking Citizenship) (2008) to article 11 of the Citizenship Law (1952). "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 the law, and the Gaza Strip. The law allows for the revocation of citizenship without requiring a criminal conviction.

²² See press briefing at: http://www.adalah.org/eng/pressreleases/5_1_12.html. See also Sawsan Zaher, "The Prohibition on Teaching the Nakba in the Arab Education System in Israel," *Adalah's Newsletter*, Volume 74, August/September 2010:

<http://www.adalah.org/newsletter/eng/sep10/docs/Sawsan%20Nakba%20English%20final.pdf>

manufactured in the OPT could have their state-sponsored benefits revoked. As such, the law severely restricts freedom of expression and targets non-violent political opposition to the Occupation.²³ Adalah and ACRI submitted a petition to the Israeli Supreme Court in March 2012 on behalf of leading human rights organizations and Israeli and Palestinian groups affected by the law seeking its cancellation.²⁴

[Press Briefing 1](#) | [Press Briefing 2](#) | [English translation of the law](#) | [The law in Hebrew](#) | [The petition in Hebrew](#)

16. Termination of Proceedings and Deletion of Records in the Disengagement Plan Law (2010)

The ‘Pardon Law,’ enacted by the Knesset on 25 January 2010,²⁵ exempts anyone who was convicted in relation to their opposition to Israel’s 2005 Gaza disengagement plan from legal sanction, provided they have not received a prison sentence. This expanded the early amnesty granted by the Attorney General, when he terminated proceedings against first-time offenders accused of minor offenses. Under this law, charges will be dropped and offenses will be deleted from any criminal records, at the offender’s request.²⁶ This law establishes a different legal process for those who were charged when demonstrating against the disengagement plan, separate from those who were charged at other political demonstrations, effectively discriminating based on ideological grounds. Palestinian Arab citizens, in particular, are subjected to severe physical and verbal abuse when demonstrating, especially at events related to their political or ideological beliefs. On 23 February 2012, the Supreme Court rejected a petition calling for the cancellation of the law.²⁷

[Media Coverage](#) | [The Law in Hebrew](#) | [Supreme Court Decision in Hebrew](#)

Pending Bills:

17. Bill to amend the Citizenship Law (1952): Loyalty Oath (2009)

This proposed amendment²⁸ to the Citizenship Law would require all persons seeking citizenship in Israel via the naturalization process and all Israeli citizens applying for their first ID cards (which is obligatory at the age of 16) to declare an oath of loyalty to Israel as a “Jewish, Zionist, and democratic state, to its symbols and values, and to serve the state in any way demanded, through military service or alternative service, as defined by law.” It would replace the text of the current declaration: “I declare that I will be a loyal citizen of the State of Israel.” Requiring such an oath marginalizes the status of Arab citizens of Israel by deeming Israel a state for Jews only. The enactment of the amendment may prove to be a slippery slope as, according to numerous other bills introduced in the Knesset, declarations of allegiance to a Jewish and democratic state could

²³ In its original form, the bill targeted Israelis, the Palestinian Authority, Palestinians and foreign governments and individuals, and sought to impose heavy fines, economic sanctions and entry bans on supporters of boycott activities. However, when the bill passed the preliminary vote by the Knesset on 14 July 2010, the application of the prohibition to foreign citizens and foreign political entities was cancelled, leaving only a prohibition and fine on Israeli citizens and residents. See, *JNews*, “Antiboycott bill passes preliminary reading in the Knesset”, 14 July 2010: <http://www.jnews.org.uk/news/antiboycott-bill-passes-preliminary-reading-in-the-knesset>

²⁴ HCJ 2072/12, *The Coalition of Women for Peace, et al v. The Minister of Finance, et al.* (case pending). The next hearing on the case is scheduled for 5 December 2012.

²⁵ The bill, Legislative bill no. L/17/2797, with the author’s explanatory footnotes, is available at: http://adalah.org/Public/files/Hebrew/Legal_Advocacy/Discriminatory_Laws/pardon_law_bill.pdf

²⁶ For media coverage of the law, see [Fadi Khoury](#), “Uprooted settlers pardoned by court – why not Palestinians?” +972 Mag. 26 February 2012; [Chaim Levonson](#), “Court rejects left-wing petition against disengagement amnesty,” Ha’aretz, 24 February 2012.

²⁷ HCJ 1213/10 *Eyal Nir et al. v Speaker of the Knesset et al.* (decision delivered 23 February 2012)

²⁸ Legislative bill no. P/18/102. This bill is an identical resubmission of Legislative bill no. P/17/3046, which was submitted to the 17th Knesset

soon be required of all ministers, Knesset members, civil service employees, etc.²⁹ Adalah sent a letter to the Prime Minister, Attorney General, and Justice Minister on 7 October 2010, arguing that the bill specifically targets Palestinian Arab citizens, whose “non-Jewish” spouses – Palestinians from the OPT and other Arab states – are those who would have to swear the oath. The bill received the government’s endorsement on 10 October 2010 on condition that certain changes be made to its provisions, but does not currently enjoy the support of a Knesset majority.

[Press briefing](#) | [The bill in Hebrew](#)

18. Bill (2009) to amend the Basic Law: Human Dignity and Liberty and limit the judicial review powers of the Supreme Court to rule on matters of citizenship

This bill³⁰ was proposed in May 2009 and seeks to limit the judicial review powers of the Israeli Supreme Court on citizenship issues.³¹ It was supported initially by 44 MKs. The bill was put forward in the context of Supreme Court hearings on petitions filed against provisions of the Citizenship and Entry into Israel Law (Temporary Order) – 2003 (amended 2007) that prohibit entry into Israel by Palestinians in the OPT and other “enemy states,” as defined by Israel (such as Syria, Lebanon, Iran and Iraq) for purposes of family unification with Israeli citizens, overwhelmingly Arab citizens of Israel.³² Adalah sent a letter to the Justice Minister and Attorney General on 18 December 2009 requesting that they reject the bill on the grounds that it violates the right of access to the courts, as well as the principle of the separation of powers, and thus the rule of law. On 12 December 2009, the Ministerial Committee on Legislation rejected the bill.

[The bill in Hebrew](#)

19. Bill to Amend the Basic Law: The Judiciary (Public Petitioners) (2011)

This bill,³³ initiated by MKs Yariv Levin and Danny Danon in February 2011, threatens to severely restrict the ability of “public petitioners,” such as human rights organizations and other public interest NGOs, from submitting legal petitions to the Supreme Court. Firstly, the bill would prevent organizations which are registered outside Israel or whose main activities are not in Israel (e.g., Palestinian human rights organizations in the OPT) from submitting petitions. Secondly, it would prohibit organizations in Israel from filing petitions in their own names alone; an affected individual must also join the case as a petitioner. Thirdly, it would require petitioning organizations to report to the court on any foreign funding that they receive so that the court is aware of what the bill refers to as “irrelevant motives of interested or hostile groups” behind the petition. The Ministerial Committee on Legislation rejected the bill on 27 November 2011.³⁴

[Press Briefing](#) | [The Bill in Hebrew](#)

²⁹ See, e.g., a currently-proposed amendment to The Basic Law: The Government – Loyalty Oath (Legislative bill no. P/18/5), which stipulates that upon taking office, 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. Two similar bills seeking to amend *The Basic Law: The Knesset* propose to impose loyalty oaths on MKs. The first (Legislative bill no. P/18/7) 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. The second (Legislative bill no. P/18/226) requires MKs to swear allegiance to the State of Israel as a “Jewish and democratic state.” These bills place severe restrictions on the rights of Arab citizens of Israel of political participation.

³⁰ Legislative Bill no. P/18/1078

³¹ A series of bills pending in the Knesset seek to amend The Basic Law: The Judiciary in order to cancel the power of the Supreme Court to invalidate laws enacted by the Knesset.

³² The Supreme Court upheld this law in January 2012. See H CJ 466/07, MK Zahava Galon v. The Attorney General, et al. (decision delivered 11 January 2012). Adalah’s Press Briefing is available at:

http://www.adalah.org/eng/pressreleases/12_1_12.html.

³³ Legislative Bill no. P/18/3134

³⁴ Jonathan Lis and Ophir Bar-Zohar, “Deputy PM threatens resignation over bill to limit Israel High Court,” Ha’aretz, 26 November 2011. <http://www.haaretz.com/news/national/deputy-pm-threatens-resignation-over-bill-to-limit-israel-high-court-1.397855>; and Jonathan Lis and Barak Ravid, “Ministerial committee rejects bill to limit Israel’s High Court,” Ha’aretz, 27 November 2011. <http://www.haaretz.com/news/national/ministerial-committee-rejects-bill-to-limit-israel-s-high-court-1.398027>

Prisoners and Detainees' Rights

New Laws:

20. Amendment No. 2 (2010) to the Criminal Procedure Law (Suspects of Security Offenses) (Temporary Order)

This law, enacted on 20 December 2010, is designed to extend the validity of harsh, special detention procedures for those suspected of security offenses. While neutral on its face, in practice the law applies to and is used mainly against Palestinians from Gaza and Palestinian citizens of Israel. The special procedures allow law enforcement authorities to delay bringing a security suspect before a judge for up to 96 hours after arrest (instead of 48 hours for other detainees). It also allows the courts to extend a security suspect's detention for up to 20 days at a time (instead of 15 days) and to hold extension of detention hearings in his/her absence. In this last respect the law seeks to bypass a February 2010 Supreme Court decision that struck down article 5 of the Criminal Procedure (Detainees Suspected of Security Offences) (Temporary Order) Law (2006),³⁵ which stipulated that security suspects could have their pre-trial detention extended in their absence.³⁶ The law removes a number of essential procedural safeguards from detainees, thus placing them at a greater risk of torture and ill-treatment.³⁷

[Press briefing](#) | [The law in Hebrew](#)

21. Law imposing severe restrictions on meetings between "security" prisoners and lawyers (2011) [Amendment – Israeli Prisons Ordinance – 1971]

The new law,³⁸ approved by the Knesset on 3 August 2011, contains an overly-broad and unconstitutional article that allows the Israel Prison Service (IPS) to prohibit prisoners involved in "security crimes" from meeting their lawyers if the IPS "suspects" that this meeting may lead to the transfer of information relating to a terror organization. As of May 2012, there are over 4,600 Palestinian political prisoners being held as "security prisoners" in Israeli prisons: the law targets and discriminates against "security prisoners", who are overwhelmingly Palestinians, as well as their lawyers, who are also generally Palestinians.

Under the law, the IPS can prevent meetings with lawyers for 96 hours (previously 24 hours) a period that could be extended for up to as many as 14 days (previously 5 days), with the approval of the state prosecutor; a District Court can extend this prohibition for 6 months (previously 21 days) and up to maximum period of one year (previously three months); the Supreme Court can extend the ban for unlimited periods after one year (Supreme Court supervision was required after three months under the previous law). These sweeping restrictions further increase prisoners' isolation and prevent them from effectively accessing the courts, or obtaining redress.

An additional amendment to the law governing the Israel Prison Service (IPS) was passed on 14 May 2012, allowing for restrictions on access to legal counsel for security prisoners. Under the new law, the IPS Director may restrict the number of lawyers able to visit a prisoner for a period of three months, and to extend the period for an additional three months with the permission of the Attorney General. The law also allows the District Court to extend the period of prohibition for up to six months at a time, without examination of any evidence against the prisoner or the group.

[Press Briefing](#) | [The law in Hebrew](#)

³⁵ Originally passed by the Knesset as a "temporary order" for 18 months, the law was extended in January 2008 for three years.

³⁶ HCJ 2028/08, *The Public Committee Against Torture in Israel, et al. v. The Minister of Justice* (petition withdrawn 24 March 2009). For more information, see Adalah news update, 23 February 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=23_02_10

³⁷ Adalah sent a letter to the Knesset's Constitution, Law and Justice Committee on 21 October 2010 to demand that the bill be rejected.

³⁸ Legislative bill no. P/18/558, approved 3 August 2011.

Pending Bills:

22. Bill to Amend the Criminal Procedure Law (Interrogation of Suspects) (Interrogation of Suspects of Security Offences) (2011)

This bill,³⁹ raised in December 2011, attempts to render permanent an exemption made to the Criminal Procedure Law, which allows for interrogations of “security suspects” to not be recorded; almost all of the ‘security detainees’ are Palestinians from the OPT or Palestinian citizens of Israel. The law, passed in 2002, required the police to create audiovisual recordings of interrogations of suspects charged with crimes carrying a minimum sentence of at least ten years. The law established a schedule for its gradual implementation, with recordings of interrogations of “security suspects” to become mandatory beginning in 2008, under Article 17. That year, however, the Knesset passed a temporary order,⁴⁰ extending the exemption until 2012 – ten years after the law was originally enacted. Notably, the requirement to create audiovisual recordings of interrogations does not apply to the Israel Security Agency (ISA) (also known as the GSS or Shabak).⁴¹ On 21 December 2010, Adalah, together with PHR-I, Al Mezan and PCATI, filed a petition to the Supreme Court requesting that the exemption be cancelled.⁴²

Initial attempts to make this exemption permanent were rejected by the Knesset. Nevertheless, this bill has revived the effort. On 11 March 2012, the Ministerial Committee on Legislation endorsed the bill.⁴³

[Press Briefing](#) | [The 2012 Memorandum in Hebrew](#) | [The Law in Hebrew](#)

23. The “Shalit laws”

Several proposed bills, collectively known as the “Shalit laws,” are currently pending before the Knesset, and seek to impose further severe restrictions on Palestinian security prisoners held in Israeli prisons. The purpose of these restrictions was originally to bring pressure to bear on Hamas to release captured Israeli soldier Gilad Shalit. Following the release of Shalit and the prisoner swap deal in October 2011, the fate of these bills remains unclear. All of these bills have passed a preliminary vote in the Knesset plenum and enjoy strong, broad-based support among MKs.

- *The Preventing Visits Bill – 2009*⁴⁴ seeks to impose a blanket ban on prisoners who belong to an organization designated as a terror organization from receiving visits in prison.⁴⁵ [The bill in Hebrew](#)
- *The Restriction of Visitation for a Security Prisoner Bill – 2010*⁴⁶ proposes that any prisoner who belongs to an organization designated as a terror organization that holds an Israeli captive should be denied visits in prison and the right to meeting a lawyer. [The bill in Hebrew](#)
- *The Release of Captives and Kidnapped Persons Bill – 2009*⁴⁷ states that if an organization designated as a terror organization holds an Israeli captive and demands the release of a specific

³⁹ More information on this legal memorandum is available on the Ministry of Public Security’s website, at: <http://mops.gov.il/about/memorandum/pages/suspectinquiryemorendum2011.aspx>.

⁴⁰ Amendment no. 4 (2008) to the Criminal Procedure Law (Interrogating Suspects). The original Hebrew text is available at: http://www.nevo.co.il/Law_word/law14/law-2158.pdf.

⁴¹ For more information, see Adalah and partners’ submission to the UN Committee Against Torture, “List of Issues Prior to Reporting by the Committee Against Torture,” March 2012: pp. 5-6. Available at: http://www.stoptorture.org.il/files/Israeli%20Organizations%20CAT%20LOIPR%202012_1.pdf

⁴² HCJ 9416/10, *Adalah, et al. v. The Ministry of Public Security* (case pending).

⁴³ Jonathan Lis, “Bill set to grant Israel Police immunity when quizzing suspects,” 18 March 2012. <http://www.haaretz.com/print-edition/news/bill-set-to-grant-israel-police-immunity-when-quizzing-suspects-1.419237>

⁴⁴ Legislative bill no. P/18/735, passed by the Knesset by a 52-10 majority, with 1 abstention

⁴⁵ In accordance with this bill, such prisoners would only be entitled to visits by the International Committee of the Red Cross (ICRC), and these would be limited to once every three months.

⁴⁶ Legislative bill no. P/18/2396, passed by the Knesset by a 51-10 majority.

prisoner held in an Israeli jail, then this prisoner should be placed in “absolute isolation and be prevented from contact with another human being.” [The bill in Hebrew](#)

- *The Imprisonment of Requested Prisoners – 2009*⁴⁸ states that any prisoner whose release is conditioned on the release of an Israeli held captive by an organization designated as a terror organization should be denied any right that could be restricted on security reasoning, held in isolation indefinitely and not be entitled to early release or parole. Once such prisoners have served their sentence, they should be declared a detainee and continue to be held. [The bill in Hebrew](#)

Freedom of Association

The following series of laws and bills seek to curtail the freedom of association and expression rights of NGOs in Israel. This legislation was introduced mainly as a response to claims that the work of these NGOs in defense of the rights of Palestinians constitutes a deliberate campaign to “delegitimize” Israel following the publication of the Goldstone Report in September 2009.⁴⁹ In addition to these laws and bills, two separate proposals to establish parliamentary committees of inquiry into the funding and activities of human rights organizations were also put forward in early 2011. Due to local and international criticism, Netanyahu announced that he no longer supported these inquiries, and in July 2011, the Knesset rejected both proposals.

New Laws:

24. Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity (2011)

The Knesset passed the “NGO Foreign Government Funding Law” on 21 February 2011. It imposes invasive reporting requirements on NGOs, requiring them to submit and publish quarterly reports on any funding received from foreign governments or foreign publicly-funded donors, including information on any oral or written undertakings made to the funders. These details must also be publicized on the websites of the NGOs, the Ministry of Justice and the Registrar of Associations. While the law’s declared purpose is transparency, these provisions are superfluous since every NGO 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.⁵⁰ Its purpose is rather to harm human rights NGOs, as these restrictions may discourage foreign government funding. By contrast, Israeli Jewish settler groups do not receive such funding; right-wing settler groups are privately funded and are therefore unaffected by the legislation. Furthermore, the law specifically exempts The World Zionist Organization, the Jewish Agency for Israel, the United Israel Appeal, the Jewish National Fund and their subsidiary corporations from its provisions. Thus the bill is inherently discriminatory. Arab NGOs in Israel and all NGOs that promote Palestinian rights are particularly vulnerable since they do not seek funding from Israeli governmental sources and have more limited access to private funding.⁵¹

[Briefing Paper](#) | [English translation of the law](#) | [The law in Hebrew](#)

⁴⁷ Legislative bill no. P/18/829, passed by the Knesset by a 53-9 majority.

⁴⁸ Legislative bill no. P/18/758, passed by the Knesset by a 54-10 majority, with 1 abstention.

⁴⁹ See, e.g., The Reut Institute, *Building a Political Firewall Against Israel's Delegitimization*, March 2010: <http://www.reut-institute.org/data/uploads/PDFVer/20100310%20Delegitimacy%20Eng.pdf>

⁵⁰ The Association for Civil Rights in Israel (ACRI) 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, and against utilizing these tools to eliminate and silence political or ideological opponents.” ACRI position paper on the bill, 23 February 2010, available at: <http://www.acri.org.il/eng/story.aspx?id=706>

⁵¹ For more information, see *JNews*, “MKs push for further pressure on human rights groups as restrictive legislation progresses”, 10 March 2011, available at: <http://www.jnews.org.uk/news/mks-push-for-further-pressure-on-human-rights-groups-as-restrictive-legislation-progresses>

New Bills:

25. Bill on Income of Public Institutions Receiving Donations from Foreign State Entity (Legislative Amendments) (2011) (“Bill on Foreign Funding of NGOs”)

This new bill, presented on 30 November 2011, resulted from the combination of two prior NGO funding bills,⁵² threatens to close down NGOs, and especially human rights organizations, by severely restricting access to foreign government funds if their goals or actions ‘negate the existence of the State of Israel as a ‘Jewish and democratic State’; incite to racism; support armed struggle against the State of Israel; support the indictment of elected officials and IDF soldiers in international courts; call for refusal to serve in the IDF; and/or support a boycott of the State of Israel or its citizens’.⁵³ The bill divides NGOs registered in Israel into three categories: 1) Those that will be completely banned from receiving foreign government funding (if they are deemed to be “political organizations”); 2) Those that are not “political organizations” but do not receive funding from the Israeli government and so must pay a 45% tax on foreign funding; and 3) Those that do receive (or have received) funding from the government of Israel and thus they can continue to receive foreign funding. The bill violates the right of freedom of association and freedom of expression of human rights organizations in Israel which seek through democratic means to challenge discrimination, improve the political, legal, and social status of Palestinians in Israel, and promote the concept of Israel as a democratic state for all its citizens. The bill was frozen in December 2011, following harsh international criticism.

[Press Briefing](#) | [The bill in Hebrew](#) | [English translation of the bill](#) | [Akunis bill](#) | [Kirshenbaum bill](#)

26. The Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association) (2010) (“Universal Jurisdiction Bill”)

This bill, introduced in April 2010, seeks to outlaw associations that provide information to foreigners or are involved in litigation abroad against senior officials of the Israeli government and/or army chiefs for war crimes.⁵⁴ 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 text of the bill refers directly to the Goldstone Report to justify its provisions. Because it essentially seeks to conceal information or suspicions of a crime, it contradicts the customary norms of international criminal law and international humanitarian law. It constitutes a dangerous attack against human rights organizations and anyone opposed to war crimes. This private bill has not yet been approved by the government.

[Press Briefing](#) | [English translation of the bill](#) | [The bill in Hebrew](#)

27. Bill for Protecting the Values of the State of Israel (Amendment Legislation) (2009) (“Jewish and Democratic State Bill”)

This private member’s bill would authorize the Registrar of Associations and the Registrar of Companies to close down associations or companies if their goals or actions are against the state as a “Jewish and democratic” state.⁵⁵ The bill, proposed in 2009, violates the right of freedom of association and freedom of expression of all Arab organizations in Israel which seek through democratic means to challenge discrimination, improve the political, legal, and social status of Palestinians in Israel, and promote the concept of Israel as a democratic state for all its citizens. It

⁵² The new bill combined Legislative bill no. P/18/2917, submitted by MK Fania Kirshenbaum, and Legislative bill no. P/18/3346, submitted by MK Ofir Akunis.

⁵³ JNews. “New bill restricting foreign funding to Israeli NGOs back on agenda.” 1 December 2011: <http://www.jnews.org.uk/news/new-bill-restricting-foreign-funding-to-israeli-ngos-back-on-agenda>

⁵⁴ Legislative bill no. P/18/2456.

⁵⁵ Legislative bill no. P/18/1220. The bill was discussed by the Ministerial Committee for Legislation on 7 November 2010.

asks them to express their loyalty to the Jewish state and therefore seeks to limit the rights of the Arab minority. The bill bears similarities to Section 7A of the Basic Law: The Knesset – 1985 asks every Arab political party list not to deny the existence of Israel as a “Jewish and democratic” state, an un-democratic provision that has been used in every election to attempt to disqualify the Arab political parties from running in elections. The bill seeks to undermine the daily operation of Arab organizations and put them under ultra-nationalist, ideological investigation, threatening their legitimate activities. The Ministerial Committee for Legislation decided in early November 2010 that the text shall be modified in coordination with the Minister of Justice.

[Press Briefing](#) | [English translation of the bill](#) | [The bill in Hebrew](#)

Occupied Palestinian Territory (OPT)

Pending Bills:

28. Amendment No. 8 (2007) to the Civil Wrongs (Liability of the State) Law (1952)

This bill seeks to exempt the state from its responsibility for injuries and damages inflicted on Palestinians in the OPT. While this bill was proposed in 2007, it is supported by the current government. The proposed law would apply retroactively to injuries and property damages sustained by Palestinians from 2000 onwards. It stipulates that even the victims of unlawful acts by Israeli security forces carried out outside the context of any wartime action will be left without a legal remedy in the form of torts. In the absence of the right to claim damages in such cases, the possibility of investigating incidents of wanton damage to property, theft and abuse by soldiers or other members of the security forces would be further diminished. The bill seeks to reverse a unanimous, nine-justice Supreme Court decision delivered in December 2006 to invalidate a similar law.⁵⁶ In that case, the court ruled that the law violated the rights to life, dignity, property and liberty and was in breach of the Basic Law: Human Dignity and Liberty. After submitting a position paper to the Knesset’s Constitution, Law and Justice Committee, Adalah participated in the Committee’s debate on the amendment on 16 November 2010.⁵⁷

[Press Briefing](#) | [Position Paper](#) | [The law in Hebrew](#)

29.

29. Bill granting tax exemption on donations to institutions that encourage “Zionist Settlement” (2012)

The bill, proposed in February 2012, will grant a 35% tax exemption on donations to institutions that promote “Zionist settlement”. The bill differentiates between public institutions on political and ideological grounds, contradicting the designation of tax benefits to serve social goals such as promoting education, culture and religion. This proposed distinction infringes on the principle of equality between public institutions, regardless of their basis of work. The benefit would apply to institutions that promote the establishment or expansion of settlements in East Jerusalem and the West Bank, which are considered illegal under international law.

[Press Briefing](#)

⁵⁶ See HCI 8276/05, *Adalah, et al. v. Minister of Defense* (decision delivered 12 December 2006). An English translation of the Supreme Court’s decision is available at:

http://elyon1.court.gov.il/files_eng/05/760/082/a13/05082760.a13.pdf

⁵⁷ See also, Ido Rosenzweig and Yuval Shany, Israel Democracy Institute, *Definition of “Combat Action” in Civil Tort Law (Liability of the State) – Amendment Bill (No. 8)*:

http://www.idi.org.il/sites/english/ResearchAndPrograms/NationalSecurityandDemocracy/Terrorism_and_Democracy/Newsletters/Pages/10th%20Newsletter/2/2.aspx

30. Bill preserving the rights of those who constructed buildings in Judea and Samaria [the Occupied West Bank] (2011) and Bill to protect those inhabiting property in Judea and Samaria [the Occupied West Bank] (2011)

These two bills seek to retroactively legalize settlements constructed in Occupied Palestinian Territory (OPT), on private Palestinian land. All settlements in the OPT are illegal under international law. The proposed bills come in the wake of a number of judgments recently issued by the Israeli Supreme Court that ordered the dismantling of illegal settlements/outposts built on private Palestinian land.^{58,59} The bills attempt to circumvent these Supreme Court decisions and undermine the rule of law. In the official explanatory notes, both bills openly criticize the Supreme Court's decisions.

The first bill,⁶⁰ initiated by MK Yaakov Katz and 14 other MKs, would legislate that any settlement construction which received state approval or state assistance – including developing infrastructure, providing incentives, or advertising the construction of new structures – would be considered to be on state land. It also declares that if a person thought "in good faith" that he was the owner of the land when he built the structure, that he should be considered as such.

The second bill,⁶¹ known as the 'Settler Arrangement Bill' initiated by MK Zevulun Orlev and 19 other MKs, states prohibits evacuating or demolishing a settlement if more than 20 families live in it, and no one has claimed ownership in the four years following its establishment.

The bills were scheduled to be voted on in the Knesset on 23 May 2012, but were postponed due to fear of international condemnation and expected pressure in case of their approval. The 'Settler Arrangement Bill' was rejected in a Knesset vote on 6 June 2012.⁶²

[Press Briefing](#) | [Bill 1](#) | [Bill 2](#) | [Adalah's Letter in Hebrew](#)

⁵⁸ In one ruling, the court ordered the demolition of five homes in the neighbourhood of Ulpana in Beit El settlement. The court ordered the state to demolish the buildings by 1 May 2012. HCJ 9060/08, *Abdul Ghani Yasin Khaled Abdallah v Minister of Defense* (decision delivered 21 September 2011). On 7 May 2012, the Supreme Court rejected an extraordinary request by the state to cancel the decision and reopen the case, ordering the state to implement the decision by 1 July 2012. See Yesh Din, "Illegal Construction in the Ulpana neighborhood," <http://www.yesh-din.org/hotspotview.asp?postid=18>

⁵⁹ In August 2011, the Supreme Court ordered the demolition of the Migron outpost. HCJ 8887/06, *Yousef Musa Abdul Razek al-Nabut et al v Minister of Defense et al* (decision delivered 2 August 2011). In March 2012, following an attempt to evade implementing the ruling, the court rejected a revised arrangement promoted by the government. See Chaim Levinson, "Israel Supreme Court rejects compromise deal on West Bank settlement of Migron," *Ha'aretz*, 25 March 2012. <http://www.haaretz.com/news/national/israel-supreme-court-rejects-compromise-deal-on-west-bank-settlement-of-migron-1.420631>

⁶⁰ Legislative Bill no. P/18/3643, submitted to the Knesset on 14 November 2011

⁶¹ Legislative Bill no. P/18/3632. Submitted to the Knesset on 7 November 2011

⁶² Jonathan Lis and Oz Rosenberg, "Knesset votes down bill to sanction illegal West Bank outposts," *Ha'aretz*, 6 June 2012. <http://www.haaretz.com/news/diplomacy-defense/knesset-votes-down-bill-to-sanction-illegal-west-bank-outposts-1.434762>