

## **Adalah's Statement to UN Human Rights Commission**

*February 14, 2001*

### **Statement of Adalah: The Legal Center for Arab Minority Rights in Israel To the UN Human Rights Commission**

14 February 2001

Professor John Dugard  
Professor Richard Falk  
Dr. Kamal Hossein  
UN Human Rights Inquiry Commission

Dear Members of the Commission:

We would like to thank the UN Human Rights Inquiry Commission (“the UN Commission”) for meeting today with NGOs in Israel. We understand that you are visiting Israel and the Occupied Territories pursuant to the 19 October 2000 resolution of the UN Commission on Human Rights establishing an inquiry commission to investigate the abuses by the Israeli security forces against Palestinians in the Occupied Territories from 28 September. While we welcome you in this capacity, we deeply regret the fact that the mandate of the UN Commission excludes an investigation of human rights abuses against the Palestinian minority within Israel.

There are a number of issues we would like to bring before you today which we have outlined below.

#### Unlawful killing and injury of Palestinian citizens

During street demonstrations in early October, Israeli police shot 13 Palestinian citizens of Israel to death and injured hundreds more using live ammunition, rubber-coated steel bullets (‘rubber bullets’), and tear gas. Adalah presented a well-documented report of our findings of human rights abuses to the UN Commission on Human Rights Emergency Session on Israel/Palestine on 17-18 October 2000. Adalah’s further investigation indicates that there was a predetermined plan to respond violently toward any expression of solidarity by Palestinian citizens with Palestinians in the Occupied Territories (see “Police had trained for riots in Galilee,” Ze’ev Schiff, Ha’aretz, 6 October 2000), and that this plan was consistent with Prime Minister Barak’s declaration that security forces had a green light to do whatever was necessary to break up the demonstrations. Related situations such as those in Nazareth, in which police looked on while hundreds of Jewish citizens chanted “Death to Arabs” and tens attacked Palestinian citizens, make it clear that this was a policy based not on fear, but on racial discrimination.

Based on the eyewitness testimonies, photos, maps and other information Adalah has collected, it is clear that the police faced no threat to life which would require opening fire with live ammunition. It appears that the shooting was to inflict serious injury, as most of the Palestinian citizens killed or injured were hit in the upper parts of the body – in the head or the chest. In some instances, the security forces went so far as to prevent ambulances from providing aid to the injured and attacking emergency medical personnel. There were also reports on police snipers opening fire with live ammunition against Palestinian citizens. One of the gravest concerns is that Mahash (the Ministry of Justice Police Investigation Unit) never opened investigations into the circumstances of the killings, and in some instances, the police deliberately prevented autopsies from being performed.

### Detention of Palestinian citizens

In October and November, as a result of the clashes, police arrested more than a thousand citizens, the vast majority of whom were Palestinian. Statistics obtained by Adalah from the Israeli Ministry of Justice indicate that between 28 September and 30 October, Israeli police arrested about 660 Palestinian citizens of Israel, both demonstrators and passersby. During that same period, 248 Palestinian citizens of Israel – adults and minors – were indicted, and the courts, accepting the prosecutors' recommendations, ordered 126 of these individuals detained without bond until the end of trial. No distinction was made between the adult detainees and the minors. Several Palestinian citizens detained were also prohibited access to counsel. By contrast, of 340 Jewish citizens arrested during this timeframe, only 66 were indicted and 29 detained without bond until the end of trial. Palestinian citizens were arrested, mostly for stone-throwing, during nighttime raids and at internal checkpoints set up at village entrances. While in detention, many Palestinian citizens reported being beaten by security forces.

Palestinian citizen detainees were also denied their rights to due process. In response to the large number of arrests, the State Prosecutor's office issued a policy document on 10 October instructing all district prosecutors to request both detention without bond until the end of their trials and maximum punishment for all of those already indicted, "Arabs and Jews alike." The stated purpose was deterrence, an illegal consideration under the Israeli criminal detention statute. This same office required all prosecutors to appeal every decision of the lower courts ordering the release of Palestinian detainees, a policy not uniformly followed for Jewish Israeli detainees.

The Israeli courts adopted a blanket policy of detention. The Supreme Court accepted the prosecutors' requests, and in appeals heard by the Court in October and November, held that only when the country returns to calm would it consider the release of the detainees. The Court refused to consider alternatives to detention, legally mandated by the Detentions Law (1996). In one instance, a political activist was sentenced to a six-month administrative detention order based on secret evidence to which neither the defendant nor his attorney was granted access.

### The Israeli Commission of Inquiry

The Israeli Commission of Inquiry ("the Israeli Commission") will have its opening session on Monday, 19 February 2001. Adalah, along with the Palestinian leadership and the Palestinian community in Israel as a whole, had struggled with the Israeli government to form a legally-sanctioned Commission of Inquiry to investigate human rights abuses on a national scale. Prime Minister Ehud Barak had initially announced the establishment of a Committee of Examination to investigate "the clashes with the security forces in the state, in which Arabs and Jews were involved, since 29 September 2000." Such a committee would have had limited powers, and although the Attorney General expanded its powers, concern was raised that such an expansion would not withstand judicial review.

The efforts of the Palestinian community proved successful, and on 8 November 2000, Prime Minister Ehud Barak announced the establishment of a Commission of Inquiry in accordance with the 1968 law of Commissions of Inquiry. Headed by Justice Theodor Or, the Israeli Commission was established "to investigate the clashes, which involved security forces and Arab and Jewish citizens of Israel" during early October 2000.

While Adalah welcomed Prime Minister Barak's announcement, and submitted extensive materials to the Israeli Commission on behalf of the High Follow-up Committee for the Arab Citizens in Israel, the establishment alone of the Israeli Commission is not enough to ensure

that justice will be served, as there are numerous procedural matters which are of serious concern. For example, the mandate of the Israeli Commission presently includes investigating the “behavior of the inciters,” and as a result there are questions about its ability to act as an impartial professional body with discretion over its findings. The terms of reference and procedures of work remain unknown. There is no right of representation and associated funding thereof for the family members of those who were killed in the first week of October, nor is there a right to full disclosure of documents obtained by the Israeli Commission from police and government sources. There is also no right to cross-examination. In addition, although the Israeli Commission has begun a series of preparatory meetings during which we understand that key members of the security forces have been questioned, these sessions remain closed. Adalah remains concerned that such denial of legal rights may prejudice the outcome of the Israeli Commission. We have raised these concerns with Justice Or, and if required, will bring them before the Supreme Court.

We have attached extensive documentation of the human rights concerns which we have outlined above, including: Adalah’s submission to the UN Commission on Human Rights in October; the report on our January 2001 submission to the Israeli Commission of Inquiry; and associated statements and press releases. We hope that the Human Rights Inquiry Commission will consider our submission, recommend an expansion of its mandate to include an investigation of human rights abuses against the Palestinian minority in Israel, and report on and strongly condemn Israeli human rights violations committed against Palestinian citizens.

Sincerely,

Hassan Jabareen, Advocate  
General Director