

# Adalah: The First 15 Years



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**Design and Layout:** Michal Schreiber

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Printed in Haifa, Al Wadi Printing House, June 2013

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Adalah's Board-staff workshop, Jericho, February 2012

# Introduction

*This report is being issued to mark Adalah's 15th anniversary. It aims to give readers an insight into the flagship legal casework that Adalah's lawyers have litigated before the courts and argued before the state authorities. Some of these cases have yielded landmark victories on constitutional issues and led to tangible improvements on the ground, while others have served to delineate the outward limits of the Israeli constitutional and judicial order. While focusing on Adalah's legal work, the report also highlights some of the complementary activities that Adalah carries out in parallel to its cases, including its publications, international advocacy, media work, legal education and training, and local community outreach.*

Adalah was founded in November 1996 as the first Palestinian Arab-run legal center in Israel. It was established as a joint project of the Galilee Society and the Arab Association for Human Rights by a small group of dedicated lawyers and activists who came together to create a professional legal institution that would serve as a focal point for developing the inceptive legal struggle of the Arab Palestinian minority in Israel. A fundamental principle of Adalah's founders was that the organization should be an authentic initiative of the Arab minority itself, and therefore have the legitimacy to work within and for the Arab community in Israel. Their vision was far-reaching, and they quickly established relations with local as well as international lawyers and professional legal bodies.

Adalah's founding goal was to achieve equal individual and collective rights for the Palestinian Arab minority in Israel, based on the recognition that in order to safeguard the equality, liberty and dignity of the individual, it is necessary to recognize his or her group affiliation and empower it. To this end, Adalah relied on a combination of Israeli constitutional law, comparative constitutional law and international law from its very earliest cases before the courts. It has grounded its legal arguments in the rights of Arabs in Israel both as individual citizens of Israel and as members of a national minority, a "homeland group". Adalah was the first human rights organization in Israel to have used the term "group rights" in its Arabic and Hebrew publications as early as 1996.

In the fifteen years that have passed since the establishment of Adalah, it has grown from a core staff of just two into the leading Palestinian Arab human rights organization in Israel, with a staff of 30. Adalah opened a second office in 2000 in Beer el-Sabe (Be'er Sheva) in the Naqab (Negev), and Adalah's cases in defense of the rights of the Arab Bedouin in the Naqab continue to make up a considerable proportion of its caseload. Its core mandate remains to promote and defend the individual and collective rights of Palestinian Arab citizens of Israel, who number 1.2 million people or close to 20% of the population of Israel. Since 2002, it has also defended the rights of Palestinians living in the Occupied Palestinian Territory (OPT) under international humanitarian law and human rights law. Adalah's mandate was officially expanded to include the OPT in 2007.

Since its establishment, Adalah has brought close to 200 impact litigation cases on behalf of Palestinian citizens of Israel and Palestinians living under occupation in the OPT. Its cases have spanned diverse fields including land and planning rights, civil and political rights, socio-economic rights and criminal justice. Its flagship cases have included the October 2000 representations, challenging the ban on family unification, overturning the government's "National Priority Areas" decision in court, fighting motions to disqualify Arab political parties and candidates from the Knesset elections, demanding basic healthcare for mothers and children, schools and safe drinking water in the Arab Bedouin "unrecognized villages", and contesting the Jewish National Fund's discriminatory allocation of state land.

Many of Adalah's cases deal with basic constitutional questions, and were therefore submitted as petitions to the Supreme Court of Israel, the case law of which bears the clear imprint of the organization's litigation. However, Adalah has also argued major cases before the lower courts and in the state's planning committees and other authorities, including the Central Elections Committee, the Or Commission of Inquiry (into the October 2000 killings), and the Attorney General's Office. Adalah has recorded significant victories in its legal struggle, but even where its cases have been dismissed and the legal battle lost, Adalah's litigation has called the state to account and obliged it to defend discriminatory policies. Even in the absence of just remedies, Adalah's cases have compelled the courts to go on the judicial record in politically sensitive cases. In bringing many of its cases, Adalah has worked in partnership and coalition with dozens of human rights, citizens' rights, social

change and community organizations in Israel and the OPT, and has drawn on its extensive network of legal and academic partners in Israel and abroad.

Adalah's legal work and successes before the courts have attracted high praise and commendation over the years. An external evaluation of the organization in 2007 that was commissioned by a long-time donor to Adalah, Oxfam NOVIB, found that, "[Adalah] is considered as the most important reference point in Arab legal action and is viewed by many Arab leaders as the 'legal arm' of the Arab minority in Israel", and that, "Adalah's litigation is 'revolutionizing the judicial discourse in Israel regarding minority rights... empowering other Arab NGOs that use Adalah's cases to follow-up on governmental policies in different fields... empowering other minority groups in Israeli society that became more confident to challenge governmental policies, using Adalah's litigation strategy to promote their rights.'"

At a recent awards ceremony, in 2011, retired Supreme Court Justice Ayala Procaccia voiced the following supportive words for Adalah: "An important part of the decisions in principle handed down by the High Court of Justice [Supreme Court] on human rights issues were given in petitions submitted by the organization. The activity of Adalah under the leadership of Attorney [Hassan] Jabareen excels in its commitment, determination, and high professional and cultural level. This is an organization that works to advance human rights by legal means, not extra-legal means, by outstanding intellectual power, high moral commitment, and a broad vision of Israeli society in all its diversity. These special characteristics have given the Adalah

organization its unique status on the map of human rights organizations in Israel.”

In recent years, Adalah has been working harder than ever due to a marked deterioration in the political and legal environment in Israel. There has been an increasing tendency for the Israeli Knesset and Government to enact discriminatory policies against Arab citizens of Israel into law, and a battery of racist and discriminatory laws continues to be legislated at an alarming pace. Adalah has counted 21 new discriminatory laws that were enacted during the term of the 2009-2012 Netanyahu government alone. The state has also defied the authority of the judiciary by failing to implement court rulings on Adalah’s and others’ cases that provide some remedy or relief for Palestinian citizens of Israel and Palestinians in the OPT, and we have seen the re-legislation of discriminatory laws following successful legal challenges, a phenomenon that attests to the ongoing erosion of the rule of law in Israel.

Nevertheless, Adalah continues to work, undeterred, on a pragmatic, creative and principled basis to achieve its core mandate of defending and promoting the rights of Palestinian citizens of Israel and Palestinian residents in the OPT. We are greatly encouraged by the broad-based support that Adalah’s work receives from Arab citizens in Israel and elsewhere, from a large number of progressive Israeli Jews, and from leading legal lights and human rights organizations worldwide. This support shores up our optimism, and allows us to continue walking down this difficult road. As we reflect on our first fifteen years, and look to the coming fifteen years and beyond, we continue to draw reserves of strength, determination

and motivation from the support of all of Adalah’s many friends, allies, donors and partners.

Below, the reader will find examples of Adalah’s major cases litigated during its first fifteen years—in the fields of land and planning rights, civil and political rights, socio-economic rights, cultural rights, prisoners and detainees’ rights, and the rights of the Palestinian population in the OPT—followed by highlights of Adalah’s publications.

Dr. Hala Khoury-Bisharat, Chairperson  
*Board of Directors, Adalah*

Hassan Jabareen, Advocate  
*Founder and General Director, Adalah*

Adalah Attorneys Hassan Jabareen and Orna Kohn and Attorney Salim Wakim representing MK Sa'id Naffaa before the Nazareth District Court, 2012



Adalah Attorneys Hassan Jabareen and Fatmeh El-'Ajou with Attorneys Fadi Qawasmi and Osama Sa'adi at the Supreme Court, 2010



# Legal Action

Land and Planning Rights

Civil and Political Rights

Socio-Economic Rights

Cultural Rights

Prisoners and Detainees' Rights

The Occupied Palestinian Territory

# Land and Planning Rights

Over the past fifteen years, the state has continued to employ diverse and at times violent means to impose its control over the land. A constant theme of Israeli land policy has been the assertion of state control over the land, and conversely ever-tighter restrictions on land ownership and use by Arab citizens of Israel. As a result, we are now seeing greater segregation along racial and religious lines, the consolidation of unjust planning and development regimes, and a stepped-up campaign of land confiscation and forcible displacement and dispossession pursued against the Arab Bedouin in the “unrecognized” villages in the Naqab (Negev) desert. Chronic overcrowding and underinvestment in Arab towns, villages and neighborhoods in the mixed cities has put severe strain on the local infrastructure, stunted community development, and forced thousands of residents to build their homes without construction permits, exposing them to the threat of demolition.

Numerous discriminatory and racist land policies have been enacted into law, including the operation of “admissions committees”, used in part to filter out potential Arab residents from hundreds of towns and villages throughout the state, and establishment of “individual settlements” in the Naqab that stretch over hundreds and even thousands of dunams of land exclusively for single Jewish families. A series of new land laws has further entrenched discrimination against Arab citizens, including by allowing Israel to sell off land owned by Palestinian refugees and internally-displaced persons designated as “absentees’ property”.

The following five cases are examples of the legal work that Adalah has undertaken on behalf of Arab citizens of Israel over the past fifteen years, to contest these land laws and policies.

## “Admissions Committees”

### *Fatina Ebriq Zubeidat et al. v. The Israel Land Administration*

*Fatina and Ahmed Zubeidat, a married Arab couple who are both architects by profession, were rejected as “socially unsuitable” to live in the community town of Rakefet in 2006. The Zubeidats were looking for a small town with good services in which build their own house and raise a family. The humiliating decision to reject the family was made by the “admissions committee” for the area, purportedly on the basis of a professional opinion.*

“Admissions committees” are bodies that screen applicants for housing units and plots of land in “agricultural and community towns” (including kibbutzes and moshavs) in Israel. As of 2010, they operated in a total of 697 agricultural and community towns in Israel, built on state land. Together they account for 68.5% of all towns and villages and 85% of all rural villages in Israel. As the gatekeepers to these communities, the members of admissions committees enjoy major decision-making power over a vast amount of state land, but their decision-making processes lack transparency.

Each committee must include “a senior official from the settlement agency (the Jewish Agency or the World Zionist Organization)”, according to Israel Land Administration (ILA) Decision No. 1015 from 1 August 2004 that originally instituted them. In part, they are used to filter out Arab citizens, as well as members of other marginalized or “socially unsuitable” groups, such as Mizrahi Jews, single parent-families and gays. In

practice, admissions committees bar Arab citizens from living in these communities and help to institutionalize racial segregation in Israel.

The admissions committee that considered Fatina and Ahmed Zubeidat’s application to live in Rakefet judged Fatina to be “an intelligent young women with high personal standards who aspires to develop herself and progress in life... However, our impression is that she is individualistic, and thus she ultimately seeks to achieve her own goals and is less committed to the common good at the community she lives in.” Meanwhile, it found that “Ahmed has good personal standards. He is an ambitious young man with high expectations of himself... However, he lacks sufficient interpersonal sophistication and has difficulty in integrating naturally into society”.



The Zubeidats in Rakefet following the Supreme Court’s decision (photo by Abdullah Shama in Haaretz)

In 2007, Adalah went to the Supreme Court to demand that the community town of Rakefet set aside a plot of land for the Zubeidats.<sup>1</sup> Adalah’s principal legal argument was that admission committees arbitrarily breached

citizens' rights to choose their place of residence. **On 13 September 2011, after a six-year legal battle, the Supreme Court accepted the petition and ordered Rakefet to award a plot of land to the Zubeidats to build a house on within 90 days.** The Supreme Court's decision confirmed a prior extraordinary decision made by the Israel Land Administration to accept the Zubeidats' request to live in Rakefet.

"We commend the court's ruling and think that our case, which has been pending for close to six years, proves that the system of admissions committees, which were approved by the Knesset, is absurd, discriminates against Arab citizens, and has no social logic whatsoever."

Ahmed and Fatina Zubedat.

It remains to be seen whether the Zubeidats' case will convince the Supreme Court to accept a separate petition submitted by Adalah against a new Admissions Committee Law, enacted in March 2011.<sup>2</sup> This legislation anchors admissions committees into Israeli law and legalizes their operation in the Naqab and Galilee. It also grants them full legal discretion to reject individuals on the vague ground of being "unsuitable to the social life of the community... or the social and cultural fabric of the town", as well as other "special criteria" to be determined by each town in its bylaws, such as having a "Zionist vision". The law also maintains the stipulation that one of the (five) members of each committee must be a representative of the Jewish Agency or World Zionist Organization.



A community town in Israel

By legitimizing the exclusion of entire groups, the law violates Israeli domestic law and international law, which ban discrimination against any person who does not belong to the dominant group in society. The case remains pending.

"The enactment of the Admissions Committees Law (2011)... is a clear sign that the concerns as regards segregation remain pressing"; Israel should "make every effort to eradicate all forms of segregation between Jewish and non-Jewish communities."

The UN Committee on the Elimination of Racial Discrimination (CERD), Concluding Observations on Israel, 2012, para. 11.

# The Jewish National Fund

## *Adalah v. The Israel Land Administration et al.*

*The Jewish National Fund (JNF) owns a vast amount of land in Israel, around 2.5 million dunams (2,500 km<sup>2</sup>), which equates to around 13% of all land in the state. The JNF's land is allocated exclusively to Jewish people, completely excluding Arab citizens of Israel. The JNF argues that it is within its rights to distribute its land as it chooses, and that as the landowner it is not obliged to treat all citizens equally. However, the JNF is a quasi-state entity with special status under Israeli law, and the majority of its land holdings were transferred to it by the state decades ago.*

Since 1948, huge tracts of land in Israel have been confiscated by law from its Arab Palestinian owners and transferred to the possession of the state or Zionist institutions. This land, known as “Israel lands,” accounts for 93% of land in Israel—including the JNF’s land—and is administered by a state agency, the Israel Land Administration (ILA). The ILA has allocated the JNF’s land via bids that are open only to Jewish people, completely excluding Arab citizens of Israel.

Adalah has been challenging the ILA’s administration of JNF land since 2004, when it petitioned the Supreme Court arguing that the policy discriminated against Arab citizens on the basis of nationality.<sup>3</sup> In response to the

petition 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.”

In its correspondence with Adalah, the ILA stated that its policy of holding Jewish-only tenders for JNF land was based on an agreement signed between the state and the JNF in 1961. The ILA argued that, based on this agreement, it was obliged to respect the principles of the JNF, which prohibit the allocation of its land to non-Jews. Adalah countered that, as a public agency, the ILA could not act as a sub-contractor for discrimination.

Crucially, the JNF itself is not a purely private body, but a quasi-state entity that has a special status under Israeli law. According to archival research, of the 2.5 million dunams land that the JNF owns, nearly 2 million dunams were transferred to it directly by the state in 1949 and 1953. Further, the JNF has played a pivotal role in formulating state land policy for decades through an arrangement that allows it to hold around 50% of seats in the ILA Council. Given the JNF’s status and the history of the land under its control, the policy of excluding Arab citizens from bidding for JNF-owned land is therefore contrary to the principles of equality, fairness and just distribution.

The discriminatory allocation of JNF land also contradicts the landmark Supreme Court decision in *Qa'dan* from 2000, in which the court ruled that the Jewish Agency’s policy of excluding Arabs from state land constituted discrimination on the basis of nationality.

“The State’s duty to respect equality in allocating rights in land is violated by the transfer of land to a third party that itself discriminates in the allocation of land on the basis of nationality or religion. The state cannot escape its legal obligation to respect the principle of equality by using a third party that adopts a discriminatory policy. What the state cannot do directly, it cannot do indirectly.”

The Supreme Court in HCJ 6698/95, *Adel Qa’dan v. The Israel Land Administration*

**In 2005, the Attorney General issued a decision that the ILA could not discriminate against Arab citizens in marketing and allocating JNF-owned land.** However, he also decided that when a non-Jewish citizen wins a tender for a plot of JNF land, the ILA will compensate the JNF with an equal amount of land, an arrangement that clearly fails to end the discrimination against Arab citizens by continuing to exclude them from 13% of land in Israel. The case remains pending before the Supreme Court.

## The threatened demolition of Alsira

### *Mousa Nasasra et al. v. The State of Israel*

*In 2006, members of 70 Arab Bedouin families who live in the unrecognized village of Alsira in the Naqab (Negev) in southern Israel started receiving demolition orders against their homes. Alsira predates the establishment of the state and is located on the Nasasra tribe’s ancestral land. Although the families have lived there for at least seven generations, the state views them as illegal squatters on state land who must be removed. In December 2011, the people of Alsira and Adalah won a landmark court decision to cancel the demolition orders.*

Historically, the land claims of the people of Alsira were recognized by the British Mandate. The State of Israel, though, has never formally recognized the village. Members of the Al-Nasasra tribe submitted legal claims for their land in the 1970s, in accordance with the Israeli Land Registration Ordinance, but their lawsuits did not reach a judgment. Despite the unrecognized status of the village of Alsira, for decades Israel left its people to build their lives there, before suddenly serving them the demolition orders. The orders were issued *ex parte*, meaning that the court issued them based solely on the state’s request without hearing from any of the homeowners, who were denied the opportunity to challenge them or defend themselves.

After receiving the demolition orders, the villagers immediately contacted the state authorities; however, officials refused to propose any alternative solution or to accept potential solutions suggested by the villagers. The people then requested legal representation from Adalah, which submitted 51 urgent motions to the Beer el-Sabe Magistrates' Court to annul the demolition orders, and succeeded to freeze them in 2007.<sup>4</sup>

As Adalah contended in court, the state's goal is to pressure the people of Alsira to abandon their land and to relocate to one of the existing government-planned towns created to concentrate the Bedouin on a minimal area of land in the Naqab. The existing state master plans for the area completely ignore the presence of the villagers on the land, which has instead been earmarked for an industrial zone.

There are around 35 "unrecognized villages" in the Naqab, which are home to around 80,000 Arab Bedouin citizens of Israel. They are referred to by the state as "illegal clusters." With no official status, these villages are excluded from state planning and government maps, and receive little-to-no basic services, including electricity, water, telephone lines, sewerage and education and health facilities. The state's attempts to assert ownership claims on the land are vehemently disputed.

**Following three years of hearings on the case, in December 2011, the Kiryat Gat Magistrates' Court accepted Adalah's motions and ordered the**

**cancellation of the demolition orders.** The judge accepted the motion on the merits and called the demolition orders "disproportionate".

"We welcome the judgment. We hope that the government will refrain from destroying all of the villages in the Naqab, and will initiate an honest dialogue with the residents of unrecognized villages to resolve the status of their villages, most of which have existed for decades."

Adalah Attorney Suhad Bishara



A makeshift sign warning of the threatened demolition of Alsira (photo by Khalil Al-Amour)

Following the decision, the state filed an appeal to the Beer el-Sabe District Court. The appeal is pending.

In parallel, Adalah has represented the people of the twin unrecognized villages of Atir-Umm al-Hieran against the state's repeated attempts to expel them from their land and homes since 2004. The state plans to uproot the Bedouin population from the village, build a new Jewish town named "Hiran" on its remains, and expand the JNF-sponsored Yatir forest over it. Adalah continues to help the people of Atir-Umm al-Hieran to fight the attempted expulsion and dispossession of the villagers via *ex parte* home demolition orders, evacuation lawsuits, and various local plans predicated on their mass evacuation.

"The Committee is concerned that the measures adopted by the State party to relocate the Arab-Bedouin villages in new settlements will negatively affect their cultural rights and links with their traditional and ancestral lands. The Committee recommends that the State party fully respect the rights of the Arab-Bedouin people to their traditional and ancestral lands."

The UN Committee on Economic, Social and Cultural Rights (CESCR), Concluding Observations on Israel, 2011, para. 37.

Both Alsira and Umm el-Hieran are again threatened with demolition by the government's Praver Plan, which is currently being implemented in the Naqab. The plan

entails the demolition of most of the unrecognized villages and the expulsion of up to 70,000 Arab Bedouin citizens from their homes and land.



The unrecognized village of Umm el-Hieran in the Naqab

## Land confiscation in Lajoun

### *Jabareen et al. v. The State of Israel et al.*

*In Lajoun, a destroyed Palestinian village in the Triangle area in central Israel, the state confiscated thousands of dunams of land belonging to Arab citizens in 1953 for alleged “essential settlement and development needs.” Since then, however, the land has been used for a manmade forest and a small industrial facility. The order affected hundreds of families who were forced to start their lives again after being made homeless. The people of Lajoun have since been engaged in a long-fought legal battle to reclaim their land.*

The Israeli Finance Minister ordered the confiscation of 34,600 dunams of land in and around Lajoun on 15 November 1953. The stated purpose of the confiscation order was to use the land to meet “essential settlement and development needs.” The order affected hundreds of families of internally-displaced persons, citizens of Israel, who were forced to start their lives again in nearby towns and villages, mainly Umm al-Fahem, after being dispossessed and made homeless.

Despite the extreme nature of the land confiscation order and the mass displacement it caused, however, the land has only ever been used to plant a manmade forest, which is still littered with the crumbling remains of the destroyed homes and buildings, and to house a small facility owned by the Mekorot Water Company. Not one home, school or hospital has been built there.

In a Supreme Court appeal submitted on behalf of 486 Arab families from Lajoun in 2007, Adalah demanded the return of nearly 200 dunams of the land to its rightful owners, given the fact that it had never been used for the alleged purpose for its appropriation during the intervening fifty years.<sup>5</sup> The appeal sought to overturn a decision by the Nazareth District Court in March 2007 to uphold the confiscation order, which legitimized the confiscation of the land.

Adalah argued that the Finance Minister’s order had been issued for false or unlawful purposes. Besides, even if the confiscation were declared legal, the state’s failure to address the claimed “essential settlement and development needs” since 1953 indicates that there was no genuine need to build residential settlements on the land.

The Supreme Court rejected the appeal in January 2010. In its decision, the court lent greater importance to manmade forests than to the property rights of Arab citizens of Israel, ruling that, “planting a man-made forest can be considered a kind of settlement, if we take into account that the presence of green spaces is essential for the welfare of everyone and is part of the general development of the region.”

The Supreme Court has since referred the case back to the District Court for a decision regarding the technical issue of whether or not the landowners are classified as “absentees” under Israeli law for purposes of compensation. The case continues.

The decision demonstrates that the court's policy of returning confiscated land proceeds along two different tracks depending on the nationality of the petitioners: there are legal precedents for Jewish citizens recovering their confiscated land in case it has not been properly used (e.g. HCJ 2390/96, *Karasik v. The State of Israel*), whereas Arab citizens cannot retrieve their land in comparable cases, even after decades of improper use. Lajoun is just one of many cases in which the state used the law to expropriate land from Arab citizens of Israel, often in the 1950s, 1960s and 1970s, but did not use the land for the stated purpose of the expropriation. This pattern suggests that the land was expropriated merely for the sake of establishing the state's control over the land.



An elderly man from Lajoun walking on his confiscated land (still from Adalah's film *Forbidden Land*)

## The Northern District Master Plan

*In September 2001, years of work by the planning authorities in Israel culminated in a master plan for the Northern District, innocuously named "Tamam 2, Revision No. 9", that aimed to "Judaize" the entire area. The plan was initiated as far back as 1986, by the National Council for Planning and Building. It referred to the Arab population of the Northern District as a problem by virtue of its very existence, and called on planners to find appropriate solutions to it. The stated goal of the plan was "preserving the lands of the nation and Judaizing the Galilee". Typically, the planning process was not inclusive and Arab citizens living in the Northern District were not consulted or involved in drafting the plan. While the process of planning used an apparently neutral, professional language, in the hands of the state authorities it constitutes a powerful tool for reallocating land and creating the conditions for future prosperity for favored groups, here Jewish citizens of Israel, while choking the growth of other groups, in this case Arab citizens of Israel.*

Israel's discriminatory, top-down land planning regime has a severely detrimental impact on the development and growth of Arab towns, villages and neighborhoods. Generally, the Arab minority in Israel appears in plans as a "demographic problem" to be solved, and the planners seek to limit the physical growth of Arab communities, restrict or prevent the expansion of industrial, commercial, and development areas in Arab towns and villages, and place as much land as possible within the borders of Jewish towns and villages, or else earmark it

as protected land under environmental directives that is not for development.

In the specific case of Tamam 2-9, the plan cited the “problems” of the demographic majority of Arabs in the Northern District, the geographic contiguity of Arab towns and villages there, and illegal building and land confiscation by Arab citizens. Planners also raised concerns that, “The taking control of [the Northern District] by Arab elements is a fact that the State of Israel is not dealing with as it should and this will cause distress to future generations.”

Restrictions in the plan prevented the expansion of industrial, commercial, and development areas in Arab towns and villages. All the industrial and commercial areas foreseen by the plan were located in or close to Jewish towns, and tourism development was entirely restricted to Jewish areas. The planners ignored the poor living conditions, overcrowding and high rates of unemployment in Arab towns and villages, and the almost complete lack of job-creating industrial and employment zones in Arab communities. In most of the Arab towns, the plan sets forth town limits that exclude many homes, designating the excluded zones as non-development areas. In terms of community participation, although Arab citizens make up more than half of the population of the Northern District, not a single Arab representative sat on the committee that finalized the plan, and there were just two Arab representatives among the thirty members of the steering committee.

In December 2001, Adalah and the Arab Center for Alternative Planning submitted an objection to the plan on behalf of 26 Arab local councils and municipalities.

The objectors demanded the cancellation of the existing plan and the development of a new document in accordance with modern planning norms, based on principles of equality, public participation, transparency, and adequate representation of Arabs in the planning process.

**In 2007, the National Council for Planning and Building partially accepted objections against Tamam 2-9.** The NCPB rejected the objectors’ requests to cancel the plan and order a new plan to be drafted in its place. However, it called for significant revisions of the plan, particularly with regard to the establishment of employment zones and overcrowding in Arab towns and villages, and the possibilities for expanding the areas for development within them. Although the decision ignored significant problems that stem from the process of drafting the plan, during which Arabs in Israel were perceived as a threat, it is still important for its recognition of discrimination between Arab and Jewish citizens of Israel, particularly in terms of economic development.

# Civil and Political Rights

In the years since the establishment of Adalah, the State of Israel has redoubled its efforts to clamp down on the civil and political rights of Palestinian citizens, and has even tried to turn their citizenship from a right into a conditional privilege. It has resorted to diverse means to delegitimize political acts and expression by Arab citizens, and attempted to represent them as an internal threat to the state, or “fifth column”.

At the level of formal politics, there have been repeated attempts to ban Arab politicians and their parties from the Knesset elections, including for demanding full equality. Arab MKs have also been subjected to politically-motivated criminal indictments for their legitimate parliamentary work. By threatening their right to vote and to run in the elections, these attacks limit the exercise of freedom of speech and political participation by all Arab citizens and undermine democratic norms in Israel.

A defining event of the past 15 years was the killing of 13 unarmed Palestinian citizens of Israel and injury of thousands of others during the October 2000 protest demonstrations. During these events, the state did not treat the Arab protestors as citizens engaged in political activity, but as enemies in the context of a military conflict, deploying snipers and using lethal force to disperse them. 13 years on, there has been no accountability for the victims and absolute impunity for the perpetrators of the violence.

The ban on family unification between Palestinians from Israel or the OPT, enacted into law in 2003, marked the beginning of a new and dangerous phase in which discriminatory policies against Arab citizens have increasingly been anchored in legislation. The stream of discriminatory laws swelled to a torrent following the election of the Netanyahu government in 2009.

Meanwhile, Arab citizens are still near-absent from decision-making positions in the civil service and from ministries and other governmental offices, despite numerous government-set targets to improve their representation. At the level of group identity, the state has sought to suppress the historical and political narrative of the Arab minority of Israel and all but prohibited Palestinian commemorations of the *Nakba* by state-funded institutions.

The cases described below outline some of Adalah’s work to defend the civil and political rights of Arab citizens of Israel in the face of this onslaught.

# Knesset election disqualifications

## *The Central Elections Committee v. Dr. Azmi Bishara and Dr. Ahmed Tibi et al.*

*The elected political representatives of the Palestinian Arab minority in Israel have been repeatedly targeted in successive national election cycles by right-wing forces determined to disqualify them and their parties, and ultimately to push them out of the democratic process. These campaigns of political harassment aim to delegitimize the Arab minority's very presence in the Knesset, and to deny its members the right to participate in the political decision-making process as individuals and as a national group. The lack of a solid legal basis for the disqualification motions has not deterred those who wish to silence the voice of the Arab Palestinian minority in parliament.*

As a national minority, Arab citizens of Israel enjoy extensive protections under international law, including the right to participate effectively in decisions on the national level and in public life. Further, for the proper functioning of democracy, it is also imperative that the voice and opinions of national minorities are fairly represented in parliament, the site of a country's law-making. In the run-up to all recent rounds of Knesset elections, however, in 2003, 2006, 2009 and 2013, Adalah has been called on to defend Arab Members of Knesset and political parties against disqualification motions

filed by the Attorney General (AG) and right-wing political parties and MKs. Upon review by the Supreme Court and/or the Central Elections Committee (CEC), their disqualifications have been found legally baseless and subsequently overturned.

In the 2003 Knesset elections, the AG and several right-wing MKs made attempts to disqualify Arab MKs and political parties from running, pursuant to Section 7A of The Basic Law: The Knesset. The CEC voted to ban the National Democratic Assembly (NDA)-Balad list, former MK Dr. Azmi Bishara and MK Dr. Ahmed Tibi from running based on their political or ideological positions. Adalah represented them all before the CEC, and then represented the NDA, Dr. Bishara and MK Tibi before the Supreme Court.<sup>6</sup> **The Supreme Court overturned the CEC's decisions to disqualify them and they ran in the elections in January 2003.**



A hearing of the Central Elections Committee, December 2012

In the case of MK Dr. Azmi Bishara, the main issue at stake was the AG's claim that a "state of all its citizens", promoted by his NDA party, was tantamount to a denial of Israel's existence as a Jewish and democratic state, in

violation of Section 7A of The Basic Law: The Knesset. The Supreme Court overturned the CEC's decisions against MK Bishara and the NDA in a 7-4 split decision. Ultimately, the court found that in order for it to rule that a political party or candidate has negated the existence of the state as a Jewish and democratic state for the purpose of disqualification, the state must provide evidence demonstrating that their main activity is to oppose a Jewish demographic majority in Israel, the Law of Return, the status of Hebrew as the state's primary language, and/or the place of Jewish symbols, national holidays, law and heritage in the state's cultural life. Seven justices found that the state had not provided such evidence.

Section 7A of The Basic Law: The Knesset, "Prevention of participation in the elections," states that the Central Elections Committee may disqualify a candidate or a political party list from running in the Knesset elections if the goals or actions of the candidate or party: (i) deny the existence of the State of Israel as a Jewish and democratic state; (ii) incite to racism; or (iii) [offer] support of armed struggle, of an enemy state or of a terrorist organization against the State of Israel.

Prior to the 2006 Knesset elections, right-wing MKs and the Likud party submitted disqualification motions against MK Sheikh Sarsur and the United Arab List (UAL) to the CEC. The motions, again filed under Section 7A of the Basic Law: The Knesset, alleged that both had denied Israel as a "Jewish and democratic state" and

made statements in support of armed struggle against the State of Israel. Adalah represented MK Sarsur and the UAL before the CEC. **In February 2006, the CEC voted 18-16 to deny the disqualification motions.**

Similar motions were submitted before the 2009 elections. This time, the CEC voted to ban Arab parties the NDA the United Arab List-Arab Movement for Change. Its decision received cross-party support from the Likud, Labor and Kadima. The disqualification motions centered on the parties' political platforms and political statements by their leaders calling, for example, for the establishment of a "state for all its citizens"; or on allegations of supporting terrorism by assisting travel to "enemy states" and "enemy entities", based on Section 7A of the Basic Law: The Knesset. Adalah appealed to the Supreme Court, arguing that disqualifying the parties would deny the Arab minority an effective vote.<sup>7</sup> **In January 2009, the Supreme Court overturned the CEC's decisions to ban both parties and they ran in the February 2009 elections.**

In December 2012, right-wing politicians once again attempted to force Arab citizens out of the Knesset, using Section 7A. Disqualification motions targeted Arab political parties the NDA and the United Arab List-Ra'am-Ta'al, as well as MK Haneen Zoabi of the NDA, the first Arab woman MK to represent an Arab party in the Knesset. The motions were based on their alleged denial of Israel as a Jewish state and support for terror, relating to MK Zoabi's participation in the Gaza Freedom Flotilla in 2010. Adalah represented both parties and MK Zoabi before the CEC, which rejected the disqualification motions filed against

the NDA and the United Arab List. However, the CEC disqualified MK Zoabi, accepting motions filed against her by the Likud. **At the ensuing Supreme Court hearing on 30 December, a nine-justice panel unanimously overturned the disqualification, accepting Adalah's defense and allowing MK Zoabi to run on the NDA list in the 2013 elections.**

These latest disqualification motions once again lacked a solid legal basis, with even the Attorney General, Yehuda Weinstein, opining that there was not sufficient evidence to uphold them. It can reasonably be expected that MKs running on Arab political party lists will face future unlawful attempts to disqualify them, as such persecution has become par for the course for Arab political representatives in Israel.



Arab MK Haneen Zoabi under fire in the Knesset

## The ban on family unification

### *Adalah et al. v. The Minister of Interior et al.*

*Under Israel's ban on family unification, thousands of Palestinian families are forced to live apart, or in a state of constant insecurity under the threat of separation. The Citizenship and Entry into Israel Law – 2003 bans Palestinians from the Occupied Palestinian Territory (OPT) who marry citizens of Israel from obtaining any legal status in Israel. It therefore prevents Palestinian citizens of the state—since it is overwhelmingly Palestinian citizens who marry Palestinians from the OPT—from realizing their right to a family life in Israel solely based on the national or ethnic belonging of their spouse. It is one of the most discriminatory laws in the State of Israel and has no parallel in any democratic state.*

The Citizenship and Entry into Israel Law (Temporary Order) (2003), also known as the “ban on family unification law”, was enacted in July 2003. It denies Palestinians from the OPT who are married to citizens of Israel (Jewish or Arab) the right to acquire Israeli residency or citizenship. The overwhelming majority of Israeli citizens who marry residents of the OPT are Palestinian citizens. The ban is based solely on their nationality, not individual security-related reasons or economic reasons, and therefore it racially discriminates against them. It is totally disproportionate to the security reasons that Israel cites to justify it, and is part of the state's efforts to maintain a Jewish demographic majority.

Adalah first challenged the law before the Supreme Court in 2003, but the court marginally upheld it in May 2006 in a controversial split 6-5 decision.<sup>8</sup> The Knesset amended the law in 2005, allegedly to allow some family unification between residents of the OPTs and Israeli citizens, but in very restricted circumstances. However, the few people who qualify receive temporary visit permits to Israel at most, and cannot apply for citizenship or even residency, leaving them ineligible for work permits, social benefits, etc., and even driving licenses.

The Knesset amended the law again in 2007 and 2008, when it cancelled even the limited possibilities for family unification between citizens of Israel and residents of Gaza, as well as citizens of official “enemy states” Syria, Lebanon, Iraq and Iran.

Adalah challenged the law again in 2007, arguing that although any state can prevent specific persons from living in it, it cannot deprive a person of his or her rights due solely to his or her national belonging, particularly if that person has a direct family link to citizens of that state.<sup>9</sup>

In response to the petition, the state claimed that dozens of people who had received status in Israel through family unification were involved in terrorist attacks, without giving specific details of cases, indictments or sentences. However, in response to a request made by Adalah in December 2008, the state had previously informed the court that just *seven* people who had been granted family unification in Israel had been indicted for security-related offenses, and that only *two* of these individuals had been convicted, and had already completed their sentences, which suggests that their offenses were relatively minor. Given the numbers involved, the law is completely disproportionate: the state could carry

out individual security checks on applicants to counter genuine security threats.

The Supreme Court narrowly rejected the petition in January 2012, in another 6-5 split decision. The majority ruled that even if the law harmed the constitutional rights of citizens of Israel, such as the right to equality, this infringement was proportional. Justice Asher Grunis, now the Chief Justice of the Supreme Court, who voted with the majority, pronounced in his ruling that, “human rights should not be a recipe for national suicide.”



Adalah Attorneys Orna Kohn and Hassan Jabareen at a Supreme Court hearing on the Citizenship Law (photo by Tomer Appelbaum)

The ban on family unification is particularly harmful to Palestinian women and children citizens of Israel, who are often the most vulnerable members of society. Social norms in Palestinian society make it more problematic for a woman than a man to live as a single parent or divorcée, to earn her own living, or move away from her family to find work. This situation is more difficult if the couple has children, as women tend to be their primary carers. Even when the family is able to live together in Israel on a temporary residency basis, if the husband is from the OPT then the family is left in poverty as he cannot work and men are typically the primary wage-earners. The threat of separation also exerts emotional and social pressures on the affected families, which may leave women and children in particular vulnerable to domestic violence. Children grow up amid a basic lack of stability and security, and as the victims of racial discrimination whose most fundamental rights as children are denied.

The ban on family remains in force today, despite strong international criticism and repeated calls to revoke the law, including by all UN human rights treaty bodies.

“The Committee reiterates that the Citizenship and Entry into Israel Law (Temporary provision) should be revoked and that the State party should review its policy with a view to facilitating family reunifications for all citizens and permanent residents without discrimination.”

The UN Human Rights Committee (HRC), Concluding Observations on Israel, 2010, para. 15.

Mrs. Raneen Tbilah is a citizen of Israel, and her husband, Mr. Hatim Tbilah, is from Nablus, West Bank. They were married in 1999 and have two young children. In her affidavit to the Supreme Court in 2003, she expressed her constant fear of what lies ahead for her family: “Being a young couple and the parents of a young girl and a four-month-old baby, and not knowing the most basic fact for every family—whether we can continue to live together as a family—makes our lives bitter... We are very glad that our daughters are too young to understand the kind of threat that is hanging like a cloud above our family. But the suffering that my husband and I are experiencing is too heavy to bear.”



Raneen and Hatim Tbilah with their two children (photo from Yediot Aharonot)

# The “Nakba Law”

## *The Alumni Association of the Arab Orthodox School in Haifa et al. v. The Knesset et al.*

*Palestinian Arab citizens of Israel are a national, ethnic, cultural, linguistic and religious minority within the borders of the state. They became a minority in 1948 with the establishment of Israel, an event that is referred to in Arabic as the “Nakba”, meaning “catastrophe”. As a minority, they are entitled to basic protections from the state under international law, including the right to enjoy their own culture. However, the enactment of the so-called “Nakba Law” in 2011 further shrank the scope of their rights to develop and express their group identity and maintain their own historical narrative.*

The term “Nakba” is the Arabic word for the mass flight and expulsion of Palestinians and the destruction and confiscation of the majority of Palestinian land and property that accompanied the establishment of Israel in 1948. The 1948 War and its aftermath are seminal events in Palestinian history, during which around 700,000 Palestinians were expelled or fled their land and hundreds of Palestinian villages were destroyed. Today, the Palestinians who remained within the borders of the new state in 1948 hold Israeli citizenship. They comprise around 20% of the total population and number almost 1.2 million people. They traditionally commemorate Israel’s Independence Day on 15 May as a day of mourning according to their own national, historical and cultural perspective, by holding demonstrations, vigils, and cultural and educational events.

Over the years, various attempts have been made by members of the Jewish majority to suppress the historical narrative of the Nakba, which contradicts the state-endorsed narrative of Israel’s establishment in many important respects. In March 2011, these efforts culminated in the enactment of the “Nakba Law.” The law allows for state funding or support to public institutions—schools, universities, local authorities, theatres, etc.—to be slashed if these institutions commemorate “Israel’s Independence Day or the day on which the state was established as a day of mourning”, or hold an activity that rejects the existence of Israel as a “Jewish and democratic state”. The law also affects NGOs and other civil society and political organizations that receive even a small amount of state funding.

The law also contains ambiguous wording, which establishes that fines will be imposed for holding events in which the Nakba is mentioned in any way, not only on Independence Day, and for any questioning of the definition of a Jewish and democratic state.



A Nakba Day rally at Tel Aviv University in May 2012 (photo by Oren Ziv for ActiveStills)

In May 2011, Adalah and the Association for Civil Rights in Israel (ACRI) petitioned the Supreme Court asking it to rule the Nakba Law unconstitutional.<sup>10</sup> They argued that by trying to stop Arab citizens from marking the Nakba, the law violates their rights to freedom of expression and to preserve their own history and culture. Beyond these concerns, it also undermines democratic values in Israel at large by suppressing free public debate and further eroding the principle of equality.

In January 2012, the Supreme Court rejected the petition on technical grounds, ruling that the case was premature as the law had not been used against any specific institution. However, the very enactment of the law, even before it has been implemented, has inevitably led to self-censorship among institutions and organizations that receive state funding amid fears of cuts to their budgets. It has therefore already limited freedom of speech, stifled public debate, and violated the rights of Palestinian citizens of Israel.

The Nakba law targets legitimate political, ideological and historical viewpoints and unjustifiably makes them the subject of punitive legislation. Far from protecting the rights of Arab citizens of Israel as a national minority, the Nakba Law perceives them as an internal threat to the state. Following the Supreme Court's decision, Adalah is monitoring the law's implementation on the ground.

"Our daughter is studying in this unique school because we did not wish her to grow up in a climate of 'we are right, they are wrong'... All we are asking is to allow our daughter and her school mates to hear the point of view of the other side. This is not about politics but about education without censorship. There were people who suffered when the state was founded, so why should we hide it? Why not choose to acknowledge the pain and heal it?"

Arik Kirshenbaum, whose daughter attends the bilingual Arab-Jewish Galil School in Misgav in the north of Israel.

## The October 2000 killings

*Between 1 and 8 October 2000, 13 unarmed young Palestinian men, citizens of Israel, were shot dead by Israeli police officers, who used lethal force against them. The 13 deaths and hundreds of injuries occurred when police opened fire on Palestinian citizens who had taken to the streets to protest against the killing and injury of scores of Palestinians in the OPT by the Israeli army and security forces at the outbreak of the Second Intifada. Although the use of lethal force against unarmed protestors is illegal, and none of the individuals shot posed a danger or threat to life to the police or to others, all case files on the killings have since been closed without any of the police officers, commanders or political leaders responsible being prosecuted or otherwise held to account. The October 2000 killings underscored how precarious the citizenship status of Arab citizens is, and how readily the state perceives and treats them as “enemies within”.*

During the protests, police and special sniper units used live ammunition, rubber-coated steel bullets and tear gas against the protestors, in violation of the law and even internal police regulations. Most of the Palestinian citizens of Israel killed or seriously injured by the police were hit in the upper parts of the body, in the head, neck or chest. The actions of the police command suggested that it was engaged in a military operation (the purpose of which is to defeat an enemy) and not a police operation (the purpose of which is to maintain public order and peace among the citizenry). In the months and

years that followed, Adalah redirected a significant part of its activities to the search for answers and justice for the October 2000 killings.



Adalah's team submitting their legal material to the Or Commission in January 2001

### ***The Or Commission of Inquiry: No justification for lethal fire***

On 8 November 2000, following enormous public pressure, an official commission of inquiry was established into the October 2000 events, referred to as the “Or Commission” after former Supreme Court Justice Theodor Or, who headed the body. Its primary mandate was to “investigate the sequence of events and... determine its findings and conclusions regarding what occurred during these events and regarding the causes leading to their occurrence at that time.”

The High Follow-Up Committee for Arab citizens in Israel and the families of the 13 Arab citizens killed in the

protests before the Or Commission appointed Adalah as their official legal representative. In preparation for its work before the Commission, Adalah sent a delegation to Northern Ireland and London for strategic legal consultation with lawyers who had represented bereaved families before the Bloody Sunday and Stephen Lawrence Inquiries, due to the relevant parallels, including the killing of demonstrators, the lack of police investigations, and institutional racism.

Adalah's first actions before the Or Commission included submitting legal challenges to its mandate, filing several successful legal motions regarding its working procedures and receipt of evidence, and sending a letter concerning a recommendation to exhume the bodies of some of the victims. Adalah's legal team also submitted a large quantity of evidentiary material to the Commission, including over 100 eyewitness testimonies, physical evidence (e.g. maps, photographs, video recordings and medical reports) and expert opinions, and attended dozens of sessions over the course of three years. It further provided the Commission with extensive information about discrimination against Arab citizens of Israel. Adalah filed scores of legal challenges against the Commission's decisions, as well as three Supreme Court petitions based on testimonies given before the Commission, including petitions to demand access for the families of four of the victims to their autopsy reports, and the removal or suspension of individual police commanders.

The Or Commission published its findings on 1 September 2003. The Commission found that there had been no justification whatsoever for the gunfire that caused the 13 deaths. It discovered that snipers has been used to

disperse demonstrations, for the first time since 1948, and that lethal sniper fire was illegal and breached internal police regulations governing the use of live fire. It similarly determined that the firing of rubber-coated steel bullets, which had fatal consequences, was against police regulations. It concluded that in none of the 13 cases had there been a genuine threat justifying the deadly gunfire, and issued recommendations to the political and operational leaderships concerning their involvement in the events. However, while the Commission found police officers and commanders responsible or culpable for individual deaths via orders to use snipers and live ammunition, the report lacked conclusive recommendations to indict those responsible for the killings at all levels.

The Commission also made the general recommendation that the Israeli police must radically alter the way they treat Arab citizens. A substantial part of the report related to the negative and illegal role of the GSS in setting government policy towards the Arab minority.

"[It is] important to inculcate moderate and balanced norms of behavior among all ranks of police personnel with regard to the Arab sector. It is important to work to uproot prejudice, which exists even among officers who are experienced and admired. The police must learn to realize that the Arab sector in Israel is not the enemy and must not be treated as such."

Report of the Or Commission of Inquiry

On a broader level, the Or Commission's report was the first official legal document published since 1948 to address historical discrimination against Arab citizens of Israel. The Commission determined that Arab citizens should be granted "true equality" and that the state should strive to close gaps in education, housing, industrial development, employment and services, especially in the case of the Arab Bedouin. The Commission also adopted Adalah's arguments regarding discrimination in land, recommending that the principle of just land allocation and suitable planning be embraced by the state to avert the need for illegal building in Arab towns, villages and neighborhoods. Although the Or Commission did not take a stand on the question of the collective rights of the Arab minority in Israel, it did determine that, "the authorities must find ways to enable Arab citizens to express their culture and identity in a dignified fashion within the public sphere." In general, in its initial response to the Commission's report, Adalah took the position that, notwithstanding its significant reservations, the Commission's recommendations should be acted on and promoted. Indeed, Adalah has used some of the report's positive recommendations in several of its subsequent petitions to the Israeli courts. However, the recommendations have not been implemented and the report was widely attacked by Jewish Israelis.

### ***"Mahash" investigates the killings: No grounds for indictments***

As a next step, the Commission ordered the Ministry of Justice's Police Investigations Department (Mahash) to investigate the killings in order to determine

criminal responsibility. Adalah undertook extensive correspondence with Mahash and the Attorney General (AG) regarding their duty to implement the Or Commission's recommendations, and demanded the prosecution of those found responsible for the deaths.

In September 2005, Mahash published its final report on its investigation, claiming that a lack of sufficient evidence meant that there were no grounds for indicting any police officer or commander for any of the 13 killings. These conclusions directly contradict those reached by the Or Commission and the fact that significant amounts of evidence were made available to Mahash by the Commission.

In general, Mahash failed to conduct prompt, complete or independent investigations and its report was roundly criticized for justifying violence against Arab citizens of Israel. Leading jurists argued that Mahash's conclusions were unreasonable and fundamentally contradicted the recommendations of the Or Commission. For example, Justice Theodor Or himself sharply criticized Mahash in a speech that he gave at Tel Aviv University a year after the release of the report, contending that, "Mahash did not collect any evidence on the events surrounding the killings of citizens, did not gather evidence at the scene, and did not attempt to locate any police officers involved in the incidents shortly after they occurred." In March 2006, Professor Philip Alston, the UN Special Rapporteur on Extra-judicial, Summary and Arbitrary Executions, questioned Mahash's decision to close its investigation into the deaths without issuing a single indictment, in his report to the 62<sup>nd</sup> Session of the Commission on Human Rights.

## ***The Attorney General's reviews Mahash: Complete impunity for the police***

As a result of intense public pressure, AG Menachem Mazuz decided to review Mahash's decision, and to this end appointed a special investigatory committee within the State Attorney's Office. The decision to review Mahash's report within the State Attorney's Office lacked any integrity because the office was headed by then-State Attorney Eran Shendar, who was the Director of Mahash during October 2000 and bears direct responsibility for its failure to open immediate investigations into the killings.



The funeral of Asel Asleh in Arrabe, October 2000

In October 2006, Adalah submitted a comprehensive 133-page report to the AG, entitled *The Accused*, which addressed the shortcomings and failings of the law enforcement authorities in investigating the killings. The main findings of *The Accused* are that Mahash: did not conduct any investigation into five of the

killings; investigated other killings in a negligent and incompetent manner; reached opposite conclusions to those of the Or Commission in many cases, even though it did not present a shred of new evidence; and hid the fact that police officers had refused to cooperate with it, including a refusal to undergo a polygraph test. Adalah demanded an investigation into Mahash for breach of trust and damaging public confidence.

The AG issued his report in January 2008, announcing that none of the police officers or commanders involved in the fatal shootings of Palestinian citizens of Israel in October 2000 would be prosecuted. Endorsing Mahash's report, Mazuz agreed that there was a lack of sufficient evidence to issue criminal indictments against police officers and commanders. In contradiction to the Or Commission's findings, he also found that the police who shot the victims did face direct threats to their lives, which he claimed necessitated the use of operational judgment and negated criminal responsibility. Thus, even if it could be proven that individual police officers had fired the lethal bullets, it could still be argued that the shootings were justified. The AG's report perpetuated the state's perception of Arab citizens as enemies of the state, and supported the view that the police have wide discretion to fire at them. As UN Special Rapporteur Philip Alston found, in a report presented to the UN Human Rights Council in May 2008, the AG's decision not to issue indictments "would appear to fall short of international standards."

## ***Ongoing lack of accountability and justice***

Following the release of the AG's report, the High Follow-up Committee for Arab Citizens in Israel (HFUC) called for the investigations to be reopened and for the establishment of an independent committee with the power to indict. However, the HFUC decided that all legal proceedings in Israel had been exhausted, and that it would thereafter focus its October 2000 advocacy on the local public and international arenas. In 2008, Adalah participated in a series of visits to South Africa with the victims' families of the October 2000 killings to examine truth and justice-seeking mechanisms and initiatives to memorialize the victims of Apartheid in South Africa. Adalah's lawyers also traveled to South Africa with Arab MKs to learn about constitution-building processes, and again with political leaders and academics to study the struggle against Apartheid.



Nazareth, October 2000

On the tenth anniversary of the October 2000 killings, Adalah embarked on an intensive program of local and international events in commemoration of the killings. It raised the case repeatedly before UN and EU bodies, and published a public petition in *Haaretz* on which it gathered the signatures of 513 Arab and Jewish lawyers in Israel. Adalah also held three public events in Haifa, Tel Aviv, and Tira, and published and distributed 3,000 copies of a booklet in Arabic on the October 2000 events and the legal struggle against impunity.

In January 2011, Adalah published a follow-up report entitled *The Accused – Part II: Failures and Omissions by the Attorney General in Investigating the October 2000 Events*. In the report, Adalah concludes that the AG's decision to close the investigation files was gravely flawed and upheld the immunity granted by Mahash to the police officers and commanders implicated in the killings. Adalah also demanded that the investigations into the killings should be reopened and transferred to an independent, professional and neutral body that should act in accordance with Israeli and international law. In February 2011, Adalah briefed UN High Commissioner for Human Rights Navi Pillay on the October 2000 events and their aftermath during her visit to Israel and the OPT, and requested her intervention to secure accountability for the families of the victims.

However, those responsible for the October 2000 killings continue to shelter behind the wall of impunity built for them by the state authorities, leaving the victims and their families without a remedy. This impunity also has a collective aspect, as it leaves all Arab citizens of

Israel vulnerable to state violence and encourages the recurrence of grave human rights violations against them. In short, justice was not done, lessons were not learned, and there has been no personal liability for any of those responsible for the lethal shootings. The root causes of the deaths of the 13 Arab citizens in October 2000 have therefore not been eradicated.

Despite the repeated failures of the state to deliver truth and justice to the Arab community in Israel for the October 2000 killings and the enormous obstacles to accountability that remain, the victims' families, Adalah, other civil society organizations and the Arab political leadership in Israel continue to advocate locally and abroad for justice and accountability for the October 2000 killings.



Clockwise from top right: Rina Rosenberg, Esq., the late Attorney Riad Anis, Stephen Kamlish QC, Attorney Hassan Jabareen, and Attorney Imran Kahn in consultations regarding inquiry commissions.

### ***The 13 Palestinian citizens of Israel killed by Israeli police forces in October 2000***

***Emad Farraj Ghanaym, 25 years of age, resident of Sakhnin; shot in the head on 2 October 2000, died on the same day.***

***Mohammed Ahmed Jabareen, 23, Umm al-Fahem; shot in the left eye on 1 October 2000, died on the same day.***

***Walid Abdul-Menem Abu Saleh, 21, Sakhnin; shot in the abdomen on 2 October 2000, and died on the same day.***

***Ahmed Ibrahim Siyyam Jabareen, 18, Moawiya; shot in the buttocks on 1 October 2000, died on the following day.***

***Ramez Abbas Bushnaq, 24, Kufr Manda; shot in the head on 3 October 2000, died on the same day.***

***Rami Khatem Ghara, 21, Jatt; shot in the eye on 1 October 2000, died on the same day.***

***Mohammad Khamayseh, 19, Kufr Kana; shot in the knee on 2 October 2000, died on the following day.***

***Eyad Sobhi Lawabny, 26, Nazareth; shot in the chest on 1 October 2000, died on the same day.***

***Omar Mohammad A'kkawi, 42, Nazareth; shot in the chest on 8 October 2000, died on the same day.***

***Ala Khaled Nassar, 18, Arrabe; shot in the chest on 2 October 2000, died on the same day.***

***Wissam Yazbak, 25, Nazareth; shot in the head from behind on 8 October 2000, died on the following day.***

***Asel Hassan Asleh, 17, Arrabe; shot in the neck from behind on 2 October 2000, died on the same day.***

***Misleh Hussein Abu Jarad, 19, Dir al-Balah (Gaza); shot in the chest on 2 October 2000, died on the same day.***

# Socio-Economic Rights

The distribution of public resources in Israel is designed to favor Jewish citizens, leaving Arab citizens on the socio-economic margins of the state. Israel has employed a wide variety of practices and policies to exclude Arab citizens from socio-economic resources and state benefits, and some of the discrimination against them has even been anchored into law in recent years. For example, several laws afford generous economic benefits to persons who complete military service, from which most Arab citizens are exempted. New legislation also gives individual ministers total personal discretion to award enormous economic benefits to towns and villages within “national priority areas” with no guiding criteria.

As a result of discriminatory policies and laws, over half of all poor families in Israel are Arab families, and Arab towns and villages make up the vast majority of the poorest localities in the country. The Arab Bedouin in the Naqab (Negev) are doubly marginalized, and Adalah has taken on dozens of legal cases over the past fifteen years to attempt to secure the most basic of socio-economic services for Bedouin citizens of Israel, including clean drinking water for residents of the “unrecognized villages”.

Discriminatory budgeting spans all government sectors, including education and health. Even though official government figures indicate that Arab students perform significantly worse than Jewish Israeli students from early childhood to higher education, public investment in Jewish Israeli schools is up to three times higher per pupil than in Arab schools. Educational assistance programs, such as drop-out counseling, are also disproportionately concentrated in the Hebrew education system, discrimination that the Supreme Court has confirmed in rulings on Adalah’s cases. Infant mortality rates among Arab citizens are over double the level for Jewish citizens, and higher still among the Arab Bedouin in the Naqab, and yet Adalah has had to resort to the courts to secure basic health services for Arab Bedouin communities, including basic neonatal care provided in “mother and child” clinics.

The following section highlights Adalah’s socio-economic impact litigation and some landmark court decisions delivered in response. It also demonstrates, however, that a positive court decision does not necessarily conclude the legal case, as Adalah has frequently been forced to file contempt of court motions to force the state to implement rulings that promote the socio-economic rights of the Arab minority in Israel.

## “National Priority Areas”

### *The High Follow-up Committee for the Arab Citizens in Israel et al. v. The Prime Minister of Israel*

*“National Priority Areas” (NPAs) are towns, villages or areas whose residents have been chosen by the government to receive a range of lucrative state benefits and financial incentives. Almost all of them are Jewish towns and villages. They are “national priorities” in the sense that the government wishes to develop and attract more Jewish citizens to live in these areas. Most NPAs are located in the Galilee in the north, which has a large Arab population (around 50%), and the Naqab in the south, where the state is waging a campaign to displace and contain the Arab Bedouin within a small number of cramped townships. Illegal Jewish settlements in the West Bank are also designated as NPAs. The state has used the NPA classification both to bolster the Jewish populations of these areas and to direct state resources to their Jewish residents at the expense of Arab citizens.*

The Israeli government created “A” and “B” priority areas in 1998 by Decision no. 2288, with other areas labeled “no status”. NPA “A” areas received large-scale benefits, incentives and grants, while NPA “B” areas received similar benefits but on a lesser scale. The benefits given to towns classified as NPA “A” included extra educational funding and tax breaks for local industry. Individual residents benefitted from enormous personal economic benefits such as additional mortgage grants and loans, tax exemptions, and educational benefits such as free

pre-schools for children, extra school hours, fully-funded computer laboratories, and exemptions from examination fees, all paid for from the public purse.

Of the 553 towns and villages that the government originally awarded the NPA “A” status, there were only four small Arab villages; Arab communities with severe economic hardships were denied the benefits while more prosperous Jewish communities located nearby were deemed eligible. For example, the first seven government-planned Arab Bedouin townships in the Naqab (Negev) were excluded from the list of NPA “A” list for education, even though they are among the most economically disadvantaged towns in Israel with the lowest levels of educational attainment. A color-coded government map showing areas designated as National Priority “A” for education in red clearly demonstrates the exclusion of Arab towns and villages, with Arab localities stranded like small islands within the surrounding sea of NPAs.

**In a landmark judgment in 2006, the Supreme Court unanimously decided to cancel the government’s decision establishing NPAs in the field of education, accepting Adalah’s petition against it.<sup>11</sup>** The court ruled that the NPAs decision discriminated against Arab citizens of Israel on the basis of race and national belonging. The ruling was groundbreaking because of its recognition of the government’s collective discrimination against Arab citizens of Israel. It created an important legal precedent as it theoretically binds the government to the principle of equality and limits its ability arbitrarily to violate the rights of Arab citizens, especially their social and economic rights.

However, years later, the state has failed to implement the court's decision on the ground, and the discriminatory use of NPAs to allocate state resources continues. On 20 June 2010, after four years of non-compliance, Adalah filed a motion for contempt to the Supreme Court against the government's failure to implement the decision and its continued use of the NPA system. For example, an additional chapter entitled "National Priority Areas" was inserted into an amendment to the Economic Efficiency Law of 2009. The law now gives the government sweeping discretion to classify towns, villages and entire regions as NPAs, and to allocate enormous state resources without clear or fair criteria, exactly the opposite result of that declared by the Supreme Court. A government decision from 2009 also gave six individual ministers, including the ministers of education, health, and culture and sports, complete and exclusive discretion to decide which towns and villages located in wider NPA regions actually receive benefits and additional funding. This refusal to implement the court's ruling is part of a wider and disturbing trend and constitutes a severe breach of the rule of law and separation of powers.

## Abu Tulul: The first high school in the unrecognized Bedouin villages

### *Fatimah Abu Sabila (Ali) et al., v. The Ministry of Education et al.*

*In August 2012, the Education Ministry opened a high school for Arab Bedouin students in the Abu Tulul–El-Shihabi area of the Naqab (Negev). The school is the first high school to be located in any of the formerly unrecognized Arab Bedouin villages, and is the result of a seven-year legal struggle waged by local people and Adalah. The state had previously not built any high school in the unrecognized villages as a matter of policy.*



Students attending the new high school in Abu Tulul

The area of Abu Tulul–El-Shihabi is home to approximately 12,000 Arab Bedouin citizens of Israel, who live in seven unrecognized villages. Around 750 of these people are

of high school age but only about 170 actually attended high school before the high school opened. It is estimated that more than half (around 55%) dropped out of school, mainly because of the lack of a local high school. The rate was even higher among girls, at an alarming 77%. The official national high-school drop-out rate is around 5%. (Data from the Israeli Central Bureau of Statistics, *Statistical Abstract of Israel 2012*.)



A bus transporting children from the unrecognized villages to school

The nearest high school outside the area is located 12-15 kilometers away. Many parents do not allow their daughters in particular to travel unaccompanied outside their villages because of restrictions placed on women and girls in traditional Arab Bedouin society.

In 2005, Adalah petitioned the Supreme Court on behalf of 35 Bedouin girls and six other NGOs to demand a high school for children in the Abu Tulul area.<sup>12</sup> **The Israeli Education Ministry reached a settlement with Adalah in 2007, committing to build and open a high school in the village by 1 September 2009. The Supreme Court then approved the settlement.**

However, the ministry stalled and dragged its feet over the school. When the deadline came and went without the school building even being constructed, Adalah re-petitioned the Supreme Court in an attempt to force the state to fulfill its commitment.<sup>13</sup> Adalah argued that the ministry should be considered in contempt of court for not implementing its decision. In the meantime, the soaring drop-out rates continued to blight the futures of young people in the area and to violate their basic right to an education.

The school finally opened its doors to students on 27 August 2012, three years later than scheduled. 120 10<sup>th</sup>-grade pupils currently study at the school, half of them girls and half of them boys. 11<sup>th</sup> and 12<sup>th</sup> grade classes will open over the next two years. Even though the school is currently housed in caravans rather than in a permanent building and still lacks computers, air conditioners and other basic equipment, it nevertheless constitutes an important legal victory for the people.

“We welcome the efforts invested by Adalah and the important achievement for the students, their families and the whole region. We are still at the beginning of the road but we hope to reap the benefits of the success of the school. We will do all we can to support the school.”

Mr. Khaled Abu Hadouba, the father of one of the girls at the school and a member of the family that donated the land on which the high school stands

## Mother and child clinics

### *Adalah et al. v. The Ministry of Health et al.*

*“Mother and child” clinics are state-funded health centers that provide preventive health services and post-natal care. They operate throughout Israel, but not in most Arab Bedouin villages in Naqab (Negev), because of their unrecognized status. However, the clinics are of particular importance to the Bedouin, who have the highest infant mortality rates in Israel. After the Health Ministry opened mother and child clinics in six unrecognized villages in 2000 and 2001 following Adalah’s litigation, it closed three of them suddenly in 2009.*

In one of its first cases, Adalah went to the Supreme Court in 1997 to demand the establishment of 12 mother and child clinics in the Naqab, and has been engaged in an ongoing legal battle for accessible frontline health services for the Arab Bedouin ever since.<sup>14</sup> In 1999, the court ordered the state to open six clinics, which it finally did by the end of 2001 after repeated delays and after Adalah filed a motion for contempt of court. As a result of the case, hundreds of Palestinian Bedouin families enjoyed reasonable access to on-site health care facilities for the first time.

However, in October 2009 the Health Ministry suddenly closed three of the clinics down. Together they served around 18,000 people living in the villages of Qasr el-Ser, Abu Tulul, Wadi el-Nam and the surrounding area. The ministry claimed that there was a lack of nurses and doctors willing to work in the centers and proposed that

the women and children in these villages go to Beer el-Sabe (Be’er Sheva) or neighboring Jewish towns located 20 km and even farther away across the desert. The lack of public transport to and from the unrecognized villages, coupled with the fact that few Bedouin women own or even drive cars, meant that thousands of women and their children stopped receiving basic health services.

The closure of the clinics in the unrecognized villages was especially harmful, since they are the most deprived localities in the country and suffer from the highest infant mortality rates in Israel, at over 15 deaths per 1,000 live births, compared to at 2.9 per 1,000 live births among the Jewish Israeli population (according to Israel’s Third Periodic Report to the UN Human Rights Committee from 2008). The closure of the clinics posed a real danger of harm to the lives of pregnant women, mothers, infants and unborn babies in these villages.



A health clinic in the unrecognized village of al-Hawashla

Shaymaa Al-'Aasem, a petitioner in Adalah's case, in her testimony: "I am a married woman with five children aged between eight months and seven years old. Because of the closure of the mother and child clinic in the village, I have to go to Be'er Sheva, which is more than 20 km away. However, as there is no public transportation between the village and Be'er Sheva and because my husband lives off national insurance payments and doesn't have a car, I can't go there... I have suffered a lot of damage by not having access to the services I should have received from the mother and child clinic, as have my children, especially the youngest, who hasn't yet completed the Ministry of Health's basic immunization program. Following the closure of the clinic, my children stopped receiving their vaccinations." In fact, the state has now begun to doubly penalize the people of the unrecognized villages, by cutting the child support payment to parents whose children have not received the vaccinations—which are given in mother and child clinics—recommended by the Health Ministry, based on a 2009 amendment of the Economic Efficiency Law. Adalah is challenging this law before the Supreme Court.<sup>15</sup>

Adalah went back to court in December 2009 to demand that the ministry reopen the clinics. In response, the state argued that it could not find staff willing to work in the clinics and had therefore been forced to close them.<sup>16</sup> **However, as a result of Adalah's petition, the health ministry reopened two of the clinics, in Qasr el-Ser and Abu Tulul, a year after their closure, in September 2010. The clinic in Wadi al-Nam was eventually reopened in December 2011.**

The inadequate provision of health services in the unrecognized villages is a deliberate policy of neglect on the

part of the state, which ultimately seeks to evacuate them and relocate their residents, in part by creating intolerable conditions. Hence it is precisely in the unrecognized villages, where the need for health services is greatest, that provision is often most inadequate. This case also provides a powerful reminder of a worrying trend by which the state fails or refuses to implement court decisions or commitments made before the court in a timely manner.



A Bedouin baby being vaccinated at a mother and child clinic



Adalah's lawyers taking affidavits in an unrecognized Bedouin village in 1997

# Clean drinking water for the Naqab

## *Abdullah Abu Musa'ed et al. v. The Water Commissioner et al.*

*Israel is not providing thousands of Arab Bedouin families in the Naqab (Negev) with access to clean drinking water because it does not officially recognize the villages they live in. Most people in the unrecognized villages have to obtain their water via improvised plastic hose hook-ups or unhygienic metal containers, which they use to transport water from a distant water point. The poor-quality drinking water drives high rates of dehydration, intestinal infections and other diseases associated with poor hygiene, such as dysentery, particularly among children.*

Adalah began to demand equal access to clean drinking water for Arab Bedouin citizens living in the unrecognized villages in 2001, after receiving complaints from local people. Since then, Adalah has represented thousands of Bedouin citizens before multiple legal forums, in what has been a labyrinthine legal battle for basic rights. **In 2011, ten years after first opening the case, Adalah won a precedent-setting Supreme Court ruling on its appeal that enshrined the right to water as a constitutional right**, regardless of the legal status of their community or any eviction or demolition orders against them.<sup>17</sup>

According to the Supreme Court, however, Arab Bedouin citizens of Israel living in the unrecognized villages are only

entitled to what it referred to “minimal access” to water, holding that the long-term solution lay in the relocation of Bedouin citizens to designated government-planned towns. Despite its vague stipulation about “minimal access” to water, the Supreme Court also found that three of the six villages represented in Adalah’s appeal should be connected to the water network.

When Adalah then applied to the Water Board to request that it connect these three villages to the public water network, however, it refused to do so. Disregarding the court’s decision, the Water Board claimed the villagers should either leave the unrecognized villages or purchase water tanks and fill them from water points in the recognized Bedouin towns. The villagers were therefore forced back to court to fight for their basic right to water.

Adalah appealed against the Water Board’s decision to the Haifa District Court, sitting as a water tribunal, on behalf of residents of two of the villages, Umm el-Hieran and Tel Arad. The 500 residents of Umm el-Hieran, for example, must travel 8 km to the nearest water point, which is owned by a private citizen, unlicensed and expensive. From there, they transport the water back to the village in unsanitary tanks. The court denied the appeal in January 2012, specifically citing eviction notices against the village as a justification for denying access to water. In its decision, the court ignored the Supreme Court’s ruling which declared that minimal access to water was a right that did not depend of the status of the village. On 27 March 2012, Adalah appealed to the Supreme Court, arguing that supplying water to citizens is a constitutional duty of the state.<sup>18</sup> The Supreme Court rejected this appeal in February 2013.

Ms. Lutfiyya Abu-Khamad, a petitioner from the village of Drijat: “The situation of lack of water and the fear that always accompanies me that the water will run out makes my life very hard. The hardship is considerable because of the permanent contradiction between my responsibility as a mother toward my children and their health... and knowing that we don’t have enough water, and that it is my obligation to make sure that the children will not use too much of the water. The result is that my suffering due to the lack of water is doubled and doubled again because of the grief that I have as a mother seeing my children suffer.”

The United Nations General Assembly recognized the right to water and sanitation as a human right in July 2010, and acknowledged that clean drinking water and sanitation were essential to the realization of all human rights (UNGA Resolution 64/292). In its General Comment no. 15 of 2002, the UN Committee on Economic, Social and Cultural Rights found that, “The human right to water is indispensable for leading a life in human dignity [and]... a prerequisite for the realization of other human rights”. It therefore held that, “States parties have to adopt effective measures to realize, without discrimination, the right to water.” In making these declarations, the international community was motivated primarily by cases in the Third World, and not in a relatively wealthy state like Israel, where there is no justification for the fact that tens of thousands of citizens are today still living without access to clean drinking water.

The fact that these villagers remain without clean drinking water is testimony to the state’s determination to force the residents of the unrecognized villages off their land, by whatever means.



A makeshift water tank; transporting water via tank in Tel Arad (photos by Yotam Ronen for ActiveStills)



# Military service and dormitory space at Haifa University

## *Haneen Naamnih et al. v. The University of Haifa*

*Israel distributes a large amount of public resources based on the “military service criterion”. Lucrative public services, economic benefits and even civil service positions are conditioned on whether a person has completed military or alternative national service. This policy is defended as a way of rewarding or compensating citizens who are perceived as “loyal” to the state for their military/national service. Since most Arab citizens of Israel are exempted from military service for political and historical reasons, however, they lose out on these benefits, regardless of socio-economic need, and the military service criterion is effectively used to channel public funds to Jewish citizens. One manifestation of this policy is Haifa University’s prioritization of former soldiers in the allocation of dormitory places, which leaves many Arab students without affordable accommodation.*

The University of Haifa allocates its dormitory space by awarding points to applicants based on their personal circumstances. A significant proportion of these points are awarded for completing military/national service, which is a way of giving priority to discharged soldiers, even though it is an irrelevant consideration. Other examples of governmental policies that privilege former

soldiers are low-interest governmental loans for home mortgages and an affordable home auction program called “Price for the Dweller”.

Adalah challenged the university’s policy before the Haifa District Court in 2005.<sup>19</sup> The petitioners’ main argument was that Haifa University discriminated against Arab students on the basis of their national belonging. Moreover, Arab students are discriminated against even though they are in greater need: they are poorer on average than Jewish students and there is little or no public transport from the Arab villages to Haifa University.

**In 2006, the Haifa District Court accepted Adalah’s petition, issuing a precedent-setting judgment that the inclusion of military service as a criterion for allocating student housing at the university was illegal.** The court based its decision on the fact that this particular benefit was not listed in the Absorption of Discharged Soldiers Law (1994), which provides for a generous compensation package for people who have served in the Israeli military. The law specifies a long list of social and economic benefits that discharged soldiers are entitled to, including housing and education grants. It also ruled that the university’s housing policy discriminated against Arab students. The court accepted Adalah’s argument that the university must allocate its housing solely on the basis of each student’s economic circumstances.

In the aftermath of what was considered to be a controversial court decision, and after Haifa University appealed the District Court’s decision to the Supreme

Court, the Knesset amended the Absorption of Discharged Soldiers Law explicitly to allow universities and colleges to take military service into account in distributing benefits, including dormitory space. The amended law also states that, "There is nothing in the instructions of this law to preclude the awarding of any benefit or right to discharged soldiers according to any arrangement or any other law." The Knesset disregarded the fact that conditioning socio-economic and other benefits on whether or not someone has performed military or alternative national violates Palestinian citizens' right to the equal enjoyment of public services, employment, etc., and is a breach of the state's duty to serve the entire public.

The amendment is also part of an alarming trend in which the Knesset reacts to unpopular court judgments by enacting new legislation designed to circumvent it, in this case in order to anchor discrimination against Arab citizens into law. Meanwhile, the Knesset is continuing to debate new bills and to enact new laws that condition state benefits and grants on military service, the cumulative effect of which is the ever increasing economic marginalization of Arab citizens.



Participants at Adalah's annual Arab law students' camp, 2012



# Cultural Rights

Arab citizens of Israel have the status of a national minority under international human rights law. However, only negligible state support is provided to help them to enjoy their religious and language rights or to celebrate their culture. For example, all official institutions, national museums, state holidays, symbols, and celebrated national heroes in Israel are Jewish-Zionist. Even though Arabic is an official language of the state, the Hebrew language dominates the public sphere, confining the opportunities of Arabic-speakers to speak their mother tongue to the school system and the private sphere. Similarly, state support for religious communities, institutions and services is almost exclusively earmarked for the Jewish community, to the exclusion of the Arab Muslim, Christian and Druze population of Israel. Without state protection, hundreds of Muslim holy sites in Israel have been demolished, evacuated, left to fall derelict, or been converted to serve non-religious purposes.

Against this backdrop, some of Adalah's first major impact litigation cases and court victories were in the field of language and religious rights, including precedent-setting Supreme Court decisions from 1998 and 2000 that public funds for cemeteries<sup>20</sup> and a "holiday charity fund"<sup>21</sup> should be allocated to Arab citizens of Israel according to the percentage-of-the-population test. The following section details some of Adalah's major casework in the field of cultural rights and its continuing battle for recognition and respect for the Arabic language and the religious rights of Arab citizens of Israel.

## Arabic road signs and signage in mixed cities

### *Adalah et al. v. The Ministry of Transportation et al.; Adalah et al. v. The Municipalities of Tel Aviv-Jaffa et al.*

*Under Israeli law, Arabic is an official language of the State of Israel, alongside Hebrew. In addition, international law obliges Israel to protect the rights of Arab citizens as a national minority to culture and language. In practice, however, Arabic is used minimally in the public sphere and Arabic speakers have little opportunity to use their language outside their homes and in their own community. Signs in the mixed Arab-Jewish cities are often posted only in Hebrew, and road signs on national highways either lack any Arabic wording, using Hebrew and/or English only, or display small and often badly-spelled Arabic text that sometimes refers to the Hebrew names for places written in Arabic letters.*

Despite the fact that Arabic is an official state language and that Arab citizens of Israel are a national and linguistic minority that accounts for around a fifth of the total population, the Hebrew language dominates public life in Israel. For example, Arabic lettering has not historically been included on national road signs, which, apart from discriminating against Arabic-speakers, also constituted a serious traffic hazard. In 1997, in one of its very first cases, Adalah petitioned the Supreme Court against the Transportation Ministry and the Public Works Department to demand that Arabic should be used on all national road signs.<sup>22</sup> At the time, over 80% of these signs were only

posted in Hebrew and/or English. If at all, Arabic appeared only on signs placed close to Arab towns and villages.

**In February 1999, the state committed before the Supreme Court to post the names and directions to towns in Arabic on all national road signs within five years.** As a result, thousands of signs have been posted in Arabic on Israel's highways. Even today, however, Adalah seeks corrections to spelling mistakes on the Arabic signs and for the Arabic names for towns and villages to appear on signs, and not the Hebrew names transliterated into Arabic.

Arabic-speakers have also been discriminated against in the "mixed cities". While Jewish citizens generally live in different towns and cities from Palestinian Arab citizens of Israel, several municipalities are "mixed". They all have a Hebrew-speaking, Jewish majority, but are also home to large numbers of Arabic-speaking citizens of Israel. In June 1999, Adalah and ACRI petitioned the Supreme Court against the five mixed municipalities of Tel Aviv-Jaffa, Ramle, Lod (Lydda), Akka (Acre), and Nazerat Illit, asking the court to order them to add Arabic to all traffic, warning and other informational signs in their jurisdiction on grounds of discrimination against the Arab resident of these cities.<sup>23</sup>

**In 2002, the Supreme Court delivered a major judgment in favor of the petitioners, ordering the mixed cities to use Arabic on public signs.** The court based its decision on the rights of Arab citizens of Israel to equality, dignity and freedom of language. It therefore ordered the municipalities to begin including Arabic text on all new signs immediately, and to add Arabic to all existing signs within four years. Following

the ruling, many signs including Arabic were put up and the situation for Arabic-speakers living in the mixed cities improved, although Adalah is still monitoring the situation and reacts to any reports of signs being posted in Hebrew and/or English only. In April 2011, the Supreme Court ordered the Municipality of Nazerat Illit to implement its ruling from 2002 immediately, in response to a motion for contempt of court submitted by Adalah and ACRI following the municipality's refusal to place Arabic lettering on street signs in the city.

Despite these legal victories, the Arabic language continues to be marginalized in Israel and attempts are regularly made to further downgrade its status. In 2009, for example, the Transport Minister threatened to Hebraize all road signs in the country. "Jerusalem", for instance, would become "Yerushalaim" in Hebrew, English and Arabic, and "Al-Quds" (the Arabic name for Jerusalem) would cease to exist on road signs. Legislative bills have also been proposed that would officially revoke the official status of the Arabic language in Israel.



A traffic sign in the mixed city of Haifa, without Arabic

## Muslim holy sites in Israel

### ***The Association for Support and Defense of Bedouin Rights in Israel et al. v. The Municipality of Be'er Sheva et al.***

*Since 1948, hundreds of Muslim holy sites located in Israel have been evacuated, closed and fenced off, left to languish in disrepair, or demolished. Others have been renovated and used for non-religious functions, including purposes forbidden in Islam, such as the sale and consumption of alcohol. Dozens of former mosques now serve as cattle sheds, offices, storage facilities, art galleries, coffee shops, restaurants and museums. Some have even been converted into synagogues. The Big Mosque in Beer el-Sabe (Be'er Sheva) was used as a court, prison and museum after 1948, before being closed. In recent years, however, the Muslims of Beer el-Sabe have sought to worship in the mosque again.*

The Big Mosque is the only remaining mosque in Beer el-Sabe, which is today home to over 5,000 Muslims. The mosque, which stands in the Old City, dates back to the Ottoman era and its construction was partly funded by Arab Bedouin sheikhs from the Naqab (Negev). The building survived the 1948 War and the expulsion of the city's Arab population. After 1948 it was put to a variety of different uses, including as a court and prison until 1953, and then a museum. In 1991, the building was closed and the mosque stood empty and neglected for several years. The many requests made by Muslims from Beer el-Sabe and the surrounding area to be permitted to

renovate the building and open it for prayer were denied by the Municipality of Beer el-Sabe.

Adalah petitioned the Supreme Court for permission for Muslims to pray in the Big Mosque in 2002.<sup>24</sup> In response, the state agreed to set up an inter-ministerial committee to examine the case. The committee, which did not include any Muslims despite Adalah's request before the court, released its report in 2004. It recommended that the mosque should not be opened for prayer because Beer el-Sabe is a Jewish town, and stated that it was "unconvinced of the need of thousands and/or tens of thousands of Muslims to pray in this building specifically." The committee suggested that the Muslim population should pray in one of the surrounding towns. The municipality and the state argued that the court should dismiss the petition in light of these recommendations.

The Municipality of Beer el-Sabe also attempted to portray the case as a political and public security issue. It claimed that restoring the building as a mosque would inevitably lead to conflict between the Muslim and Jewish communities in the city. Adalah countered that the case centered on the religious rights of Muslims living in and around Beer el-Sabe and the principle of equality. The municipality also suggested opening the building as a museum.

In June 2011, after almost ten years of deliberations, the Supreme Court ruled in a landmark judgment that the Big Mosque should be opened as a museum of Islamic culture. The decision marked the first occasion on which an Israeli court has recognized the historical and cultural significance of the site for Muslims.

Despite the positive aspects of the court's decision, like hundreds of other Muslim holy sites in Israel, the Big Mosque remains unprotected as a holy site by Israeli law and the legitimate requests and religious rights of the local Muslim community to worship there is not guaranteed. The maintenance of holy places in Israel falls under the mandate of the Ministry of Religious Services (previously the Ministry of Religious Affairs) and the Protection of Holy Sites Law (1967). The law aims to safeguard and preserve sacred places from desecration and anything that could obstruct access to them by worshippers or offend their religious sensitivities. Although the law requires the minister to protect holy sites in general, only Jewish sacred places have been officially designated as holy sites. In 2009, the Supreme Court rejected a petition filed by Adalah to demand that Israel use the Protection of Holy Sites Law to protect Muslim holy sites in Israel.<sup>25</sup> The court denied the petitioners' request, claiming that defining specific sites as Muslim holy sites was a "sensitive matter".



The Big Mosque in Beer el-Sabe (Be'er Sheva)

Meanwhile, frustration at the Supreme Court's decision to turn the Big Mosque in Beer el-Sabe into a museum of Islamic culture has been eclipsed by anger at the municipality's failure to implement even this flawed compromise. The municipality has opened what it refers to as "the Archaeological Museum" in the mosque. The displays and a short film that plays on a loop have no link to Islamic culture and even fail to mention that the building was built as a mosque. They merely state that it was constructed in an "Old Turkish" style, despite the minaret that still stands over it.

"I went yesterday, Monday 5 March [2012], on a trip to the Big Mosque, and I felt horrified and furious at this violation of the mosque's sanctity. In the mosque there are plastic dolls and models wearing British and Israeli uniforms, some of them in shorts, among other exhibits that are irrelevant to Arab-Islamic culture or tradition."

Mr. Nuri al-Uqbi, the director of the Association for the Support and Protection of the Rights of the Bedouin in Israel and a petitioner in the Big Mosque case

In a further insult to Muslim sensibilities, in recent years the municipality has used the mosque and its courtyard as the setting of the annual "Salut Wine and Beer Festival". Toilet facilities used by the festival goers were also housed in the mosque. In 2012, the festival offered alcoholic beverages from about 30 breweries and wineries from around the country, as well as imports. The decision

to hold the festival on the grounds of the mosque provoked local and international fury and led hundreds of Muslims to hold protests and prayers at the site. As a result of urgent negotiations between the municipality, community leaders and Adalah on behalf of Muslim worshippers, the mayor stated that in future, the festival would no longer be held at the Big Mosque. Adalah continues to work alongside the Muslim population of Beer el-Sabe to reopen the mosque for prayer.



The 2010 Wine and Beer Festival at the Big Mosque, Be'er Sheva

# Prisoners and Detainees' Rights

Israel has pursued a policy of mass detention and imprisonment against the Palestinian population of the West Bank and Gaza Strip since its Occupation began in 1967. Since then, over 750,000 Palestinians have been detained—around 20% of the entire population, men, women and children—despite their status as a “protected population” under international law. The vast majority of Palestinian detainees from the OPT are arrested for alleged “security” crimes against Israel, though large numbers of them were engaged in legitimate political activities and acts of resistance against the Occupation. Thousands of Palestinian prisoners and detainees are held in Israel, in violation of international humanitarian law, unable to be visited by their families. The mass arrest and detention of Palestinians from the OPT is a powerful means of political repression that Israel uses against the entire occupied Palestinian population. At the time of the writing of this report, over 4,500 Palestinian security detainees and prisoners were being held in Israeli prisons, including around 155 administrative detainees, 10 female prisoners and 165 minors (according to Addameer).

Once arrested, they endure harsh interrogation as “security detainees” at the hands of the General Security Services (GSS or Shabak) that can amount to torture and/or ill-treatment while being denied access to legal counsel. Most are then put through a military court system that flagrantly violates their rights to due process. Thousands have also been held in open-ended administrative detention without trial. After being convicted, often on the basis of secret evidence, they are held as “security prisoners”, a classification which Israel uses to discriminate against them compared to ordinary “criminal detainees” and even a small number of Jewish Israeli security prisoners. For example, they are banned from using the telephone, family visits are restricted or prohibited in the case of prisoners from Gaza, and they are not allowed to take prison furloughs, in a form of collective punishment.

The following two cases present a snap-shot of Adalah’s litigation on behalf of Palestinian prisoners and detainees.

# Interrogations of Palestinian detainees: safeguards against torture

## *Adalah v. The Ministry of Public Security*

*After their arrest, Palestinian detainees from the OPT endure days and even weeks of interrogation by the General Security Services (GSS or Shabak). The GSS routinely uses harsh interrogation techniques that cross the line of torture and ill-treatment, including holding detainees in prolonged binding in painful “stress positions”, beatings, medical neglect, spitting in the detainee’s face, exposure to extreme temperatures, sleep deprivation, and solitary confinement, and threats. In many cases threats are also made against the detainee’s family and innocent family members are sometimes arrested and brought before the detainee in the interrogation cell. Many succumb to the pressure and sign false confessions in order to end the interrogation. Legal safeguards providing some protection for detainees have been steadily stripped away, including prompt access to lawyers, access to independent medical doctors, and, since 2008, by a law that allows the GSS and the police not to record their interrogations of “security detainees”.*

Palestinians regularly complain of being the victims of torture or ill-treatment while held in Israeli detention facilities. According to the Israeli Interior Ministry, over 700 written complaints of torture and ill-treatment by GSS interrogators were filed to the state between 2001

and 2011, but not one of them has led to a criminal investigation, much less conviction. Despite their consistent allegations and the impunity enjoyed by the GSS, however, Palestinian detainees are systematically deprived of standard basic legal safeguards and their basic rights to due process.

In 2008, the Knesset amended the Criminal Procedure (Interrogation of Suspects) Law to exempt the GSS and the Israeli police from the duty of making audio and video recordings of security suspects, in breach of Israel’s obligations under international law. As a rule recordings must be made of interrogations of all detainees who are suspected of committing serious offenses that carry a sentence of ten or more years of imprisonment. However, this duty is lifted by the amendment in the case of people arrested on suspicion of security offenses, no matter what the charge or potential punishment. The exemption is discriminatory as the overwhelming majority of people arrested for security offenses are Palestinian. Moreover, the law does not detail what constitutes a “security offense”, leaving Palestinian detainees doubly vulnerable. Adalah petitioned the Supreme Court against this exemption in 2010.<sup>26</sup> The amendment has been “temporarily” extended repeatedly since its enactment as is currently valid until 2015.

As the petitioners argued, Palestinian security detainees are effectively cut off from the outside world during the initial stages of their interrogations, denied access to a lawyer and contact with anyone other than their interrogators. Between interrogations, they are held in small, dirty cells in GSS facilities that are totally isolated, closed off even to the International Committee of the Red Cross, and gag orders are issued in almost every security

case. In the absence of any other means of oversight over their interrogations blocked, audio or video recordings of the interrogations are a crucial safeguard against torture and ill-treatment.

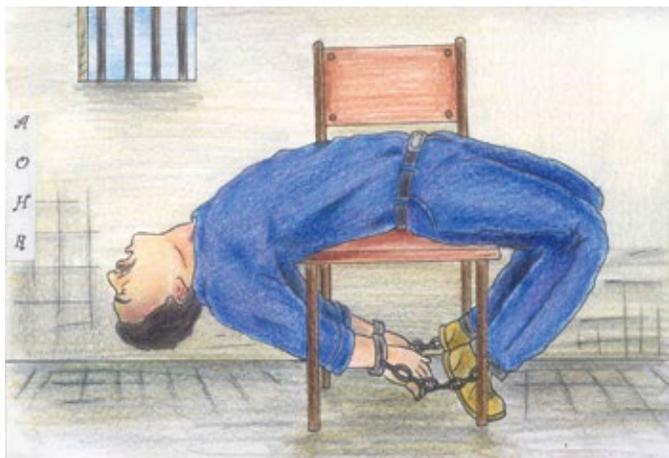


Illustration of the “banana” stress position used in the interrogations of “security detainees”

The recordings also help to ensure the integrity of the judicial proceedings in the detainee’s case and are a way of preventing falsely-obtained confessions. Without them, there is no direct evidence of the suspect’s physical and mental state as a result of his or her treatment by the GSS. Recordings are even more critical given that the documentation of the interrogation is written in Hebrew, which most of the detainees cannot read, while the interrogation is done in Arabic.

The Supreme Court dismissed the petition in February 2013, stating that the Ministry of Justice had committed to examining alternatives to the exemption by 2015,

and that the government would clarify the definition of “security offenses” in the law. In its decision, the Supreme Court confirmed that the Knesset must amend the law. One day before the court’s decision, the Turkel Committee<sup>27</sup> published its second report to the government. In this second report, the Turkel Committee completely contradicted the court’s decision by clearly recommending that, “All ISA interrogations shall be fully videotaped” (Recommendation no. 15). Yuval Diskin, former head of the GSS, also testified to the Turkel Committee that he considered video recording GSS interrogations “proper” (p. 417). In essence, however, the court dismissed the petition based on a promise made by the state to examine the constitutionality of a law in three years’ time, which is an extraordinary ruling and a long time indeed for such a dangerous violation of detainees’ rights to continue.

“Video recording of interrogations is an important advance in protection of both the detainee and, for that matter, law enforcement personnel. Therefore, [Israel] should, as a matter of priority, extend the legal requirement of video recording of interviews of detainees accused of security offenses as a further means to prevent torture and ill-treatment.”

The UN Committee Against Torture (CAT), Concluding Observations on Israel, 2009, para. 16.

# Hunger-striking prisoners and access to lawyers

## *Fida Kawaer et al. v. The Israel Prison Service*

*Palestinian prisoners from the West Bank and Gaza Strip have used mass hunger strikes to protest against the often deplorable conditions of confinement in which they are held in Israeli jails. One such strike began on 15 August 2004, when 1,500 Palestinian political prisoners and detainees announced their strike, a number that quickly climbed to 3,000. The hunger strikers were protesting against their poor living conditions, ongoing mistreatment and the denial of their most basic human rights. Despite the legality of the strike and the physical danger that many of the prisoners were in, the Israel Prison Service (IPS) prevented meetings between the hunger striking prisoners classified as “security” prisoners and their lawyers from the very start of the strike.*

A prisoner’s right to meet an attorney and receive legal counsel and representation is an essential safeguard to allow convicted persons to defend their rights, challenge and expose abuses in prison, petition to improve their conditions, and initiate other civil proceedings. This right is absolutely critical for security-classified prisoners, who are almost all Palestinians, because they are subjected as a group to sub-standard conditions of confinement and have little-to-no contact with the outside world. Physically, prisoners complain of insufferable heat and humidity in summer and near-freezing conditions in

winter. Their cells typically lack adequate ventilation and many are affected by severe overcrowding, mold, insect infestations and a putrid stench. Security prisoners are also not entitled to a daily walk in the open air, may be disciplined by being held in solitary confinement, and are denied their right to study and receive welfare services.

Visits from lawyers are even more important for security prisoners because they are held in near-isolation from the outside world. Family visits to security prisoners are heavily restricted and were completely banned for prisoners from Gaza for five years (2007-2012), and they are generally banned from using the telephone, even to contact their lawyers. Despite these other restrictions, the Israeli prison authorities also place multiple obstacles in the way of Palestinian “security prisoners” who require legal counsel, and often compound these obstacles during a hunger strike.



The daughter of the hunger-striking prisoner Khader Adnan standing in front of Ofer Prison, Winter 2012

From the start of the 2004 hunger strike, the IPS imposed a blanket ban on attorneys visiting the hunger strikers for days and even weeks at a time. In response, Adalah and ACRI petitioned the Supreme Court, arguing that prisoners had the right to meet an attorney under Israeli and international law, and that the hunger-strikers' deteriorating health greatly increased the gravity of the situation.<sup>28</sup> The petitioners stressed that the IPS did not have the authority to prevent meetings between prisoners and their attorneys, even if it regarded the hunger strike as a breach of prison regulations.

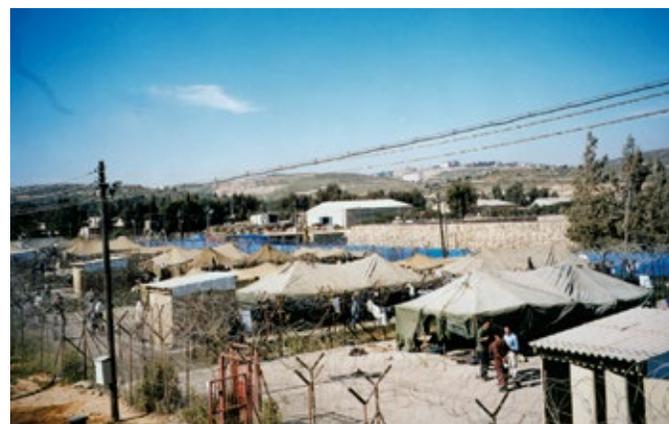
**In September 2004, the Supreme Court ruled, for the first time, that the right of prisoners and detainees to meet with their lawyers was absolutely guaranteed, including prisoners who are taking part in a hunger strike,** in response to the petition. The Supreme Court also decided that the Israel Prison Service (IPS) had acted illegally in barring such meetings during the 2004 hunger strike.

Despite this legal precedent, the IPS and the Knesset have continued to impose arbitrary restrictions on meetings between security-classified prisoners and their lawyers, including when they are on a hunger strike. The lawyers of security prisoners face more onerous procedural checks than the lawyers of other prisoners. For example, they must inform the IPS of their intention to visit a prison 24 hours in advance and have to obtain a permit for the visit. They are also subjected to intrusive searches and are separated by glass barriers during the meetings.

More recent legal developments have added yet further restrictions on meetings between security prisoners and their lawyers. In 2011 the Knesset enacted a new law that allows the IPS to prohibit such meetings for up to

an entire year based on vague security grounds. Then, in 2012, the Knesset passed a new amendment to the law governing the IPS, which allows the Director of the IPS to limit the number of lawyers visiting security prisoners as a group or as individuals when he believes the meeting may harm state security, public security or discipline within the prison. Taken together, these restrictions violate Palestinian prisoners' rights to legal counsel, legal representation, and access to the courts. They also compound their isolation.

In the hunger strike held in April-May 2012, involving 1,600 prisoners and detainees, the IPS again resorted to the illegal policy of preventing lawyers from meeting the hunger-strikers. The most common reason given for denying access to lawyers was that prisoners unable to stand up and be counted during role call could not hold meetings with their lawyers. Adalah wrote to the IPS to challenge the policy on behalf of Israeli and Palestinian human rights organizations and several individual lawyers. Following Adalah's letter, most lawyers were able to meet their clients.



Ofer Prison

# The Occupied Palestinian Territory

In the years since Adalah's establishment, seismic shifts have taken place in the reality on the ground in the Occupied Palestinian Territory (OPT), from the residual optimism of the Oslo Accords to the outbreak of the Second Intifada in September 2000, an event that led to a further deterioration in the human rights of Palestinians living under Israeli Occupation. Adalah first began to work on OPT cases in 2002, in response to the emergency humanitarian crisis created by the Israeli invasion of Palestinians towns throughout the West Bank. It took on several cases at the requests of Palestinian human rights organizations in the OPT which lacked access to the Israeli courts due to these attacks and as their offices were raided and ransacked by the Israeli military. Adalah based its legal arguments in these cases on the norms of international criminal, humanitarian and human rights law. This series of cases proved extremely controversial in the eyes of the Jewish Israeli majority, partly because they were litigated while Israel's military operations were still underway.

Adalah has since obtained some landmark Supreme Court judgments, including a court ruling from 2005 that the Israeli army's use of Palestinian civilians as "human shields" in military operations constituted a violation of international humanitarian law. In 2006, the court decided on another petition filed by Adalah that Israel could not exempt itself from paying out compensation to Palestinians who had been injured or otherwise harmed by the Israeli military.

Adalah's OPT litigation has been increasingly limited by the Supreme Court's overwhelmingly non-interventionist position towards OPT cases, and its judicial policy of endorsing the actions of the army in the OPT, irrespective of international law. The court has also accepted Israel's declaration of Gaza as an "enemy entity" and the state's assertion that its military rule over the Strip came to an end with the implementation of the "Disengagement" plan in 2005, severely restricting the scope of legal work in Israel on behalf of Palestinians from Gaza. Nonetheless, within this narrow space for maneuver, Adalah continues to take on strategic impact litigation in OPT cases, some of which is highlighted in the following section.

## 2002 West Bank invasions

### *Adalah et al. v. Yitzhak Eitan, Commander of the Israeli Army in the West Bank et al., etc.*

*At the end of March 2002, the Israeli army launched a massive military invasion of the West Bank, causing scores of civilian deaths, thousands of injuries, and widespread destruction of civilian property, during one of the most violent chapters of the Second Intifada for Israelis and Palestinians. In March and April, Israel's military entered and attacked Palestinian cities, towns, villages and refugee camps, including Jenin, Nablus, Ramallah, Tulkarem, Qalqilya, and Bethlehem. The invasion was referred to by Israel as "Operation Defensive Shield", and was the setting for gross violations of human rights, some of which constituted war crimes against Palestinian civilians under international law.*



A Palestinian child being used as a human shield, Beit Ommar

After receiving urgent requests for assistance from human rights organizations in the OPT, Adalah adopted an emergency agenda in response to the invasion, filing a total of seven petitions and a writ of habeas corpus to the Israeli Supreme Court.<sup>29</sup> As a Palestinian legal center that works before the Israeli courts, Adalah was in a unique position to assist Palestinian human rights organizations and the Palestinian people in the OPT at a time of dire emergency and urgent need. It worked closely with the former West Bank-based Palestinian legal center LAW and the Palestinian Center for Human Rights on many of these cases.

In bringing this body of legal cases before the courts, Adalah challenged the Israeli army's actions in denying medical treatment for the sick and wounded in the Jenin Refugee Camp and Nablus, and in preventing the evacuation and proper burial of the dead. Adalah also petitioned against the army's demolition of homes in the Jenin refugee camp using bulldozers, shells, and even missiles launched from helicopter gunships, as well as the army's reported plans to collect and bury the bodies of Palestinians from the Jenin Refugee Camp in mass anonymous graves. One petition, brought with the Association for Civil Rights in Israel, sought an immediate end to the indiscriminate shelling and striking of civilians and civilian targets throughout the West Bank, including houses, schools, roads, hospitals, mosques and churches. Another petition, which Adalah filed on behalf of seven detainees who were arrested during the invasion and ten Palestinian and Israeli human rights organizations, challenged the inhuman detention conditions of hundreds of Palestinian detainees at the Ansar III Detention Center in the Naqab (Negev) desert, where they were held in tents without adequate shelter, bedding, or access to food and water.



Jenin, 2002

Adalah brought one of the petitions against the Israeli army's use of Palestinian civilians as human shields and/or hostages during the invasion, arguing that the practice constituted a "grave breach" of the Geneva Convention IV and violated the rights to life, physical integrity and dignity.<sup>30</sup> The army issued orders prohibiting the practice following the petition, but continued to use human shields on the ground, under the misnomer the "neighbor procedure". After years of legal work on the case, during which Adalah brought substantial evidence of the ongoing use of Palestinian civilians in Israeli military operations, **the Supreme Court issued a major decision in 2005 accepting Adalah's petition and ruling the use of human shields illegal.**

However, the Supreme Court dismissed each of the other petitions filed in 2002. The court did not address in-depth any of the legal arguments raised by the petitioners and avoided giving any legal reasoning or analysis in its decisions. It cited several reasons for dismissing the petitions, including that it was unable to intervene in

military operational decisions or that it accepted the army's contentions that its soldiers were making every possible effort to protect the Palestinian population in the OPT.

In bringing these legal challenges, Adalah was aware that the Supreme Court would not rule against the Israeli army, especially whilst the hostilities were ongoing. However, its goals were to force some judicial review of the Israeli army's actions, to compel the state to respond to its claims, to create a documented record of these events, and to generate local and international awareness of these gross violations of human rights.



Demolished Palestinian homes in Jenin, 2002

## Home demolitions and “absolute military necessity”

### *Adalah et al. v. IDF Major General, Central Command, Moshe Kaplinski et al.*

*Following the outbreak of the Second Intifada in September 2000, the Israeli army adopted a policy of demolishing Palestinian homes throughout the OPT. Mass home demolitions were executed during several Israeli military invasions of the OPT, and justified by Israel under the “absolute military necessity” exception, which appears in the Geneva Convention IV and the 1907 Hague Regulations. Israel carried out particularly extensive campaigns of home demolitions in the Jenin refugee camp and Nablus in the West Bank in 2002 and in the Rafah refugee camp in Gaza in 2004, creating humanitarian disasters and leaving thousands of people homeless.*

The concept of “absolute military necessity” evolved as an exception to the basic principle in international humanitarian law banning an occupying power from destroying civilian property in an occupied territory. This exception was created to allow the destruction of civilian property in extreme and extraordinary circumstances, subject to several strict restrictions, including that the army must always distinguish between civilian and military objects, that civilian property being used for military purposes can only be demolished when it presents an immediate and absolute military risk, and that property must not be demolished using

disproportionate means. The demolition of civilian property must also not be used to gain protection for the army against attacks. In the OPT, however, Israel has repeatedly abused the concept of “absolute military necessity” to justify the mass demolition of homes, in violation of the laws of war.

In 2004, Adalah, together with the Palestinian Center for Human Rights – Gaza, and Al-Haq, filed a petition to the Israeli Supreme Court asking it to define, for the first time, the legal parameters of the term “absolute military necessity”, in accordance with international humanitarian law.<sup>31</sup> The petitioners argued that the Israeli military grossly violated the “absolute military necessity” exception and used it as an excuse to carry out mass home demolitions in the OPT, and asked for an injunction against further home demolitions. Adalah was supported in its arguments by Special Rapporteur John Dugard, who found that the Israeli military’s home demolitions policy involved instances of “wanton destruction”, and constituted a “grave breach” of the Fourth Geneva Convention. In a UN report from August 2004, Professor Dugard called on the international community to “identify those responsible for this savage destruction of property and to take the necessary legal action against them.”

The petition was filed following an escalation of home demolitions in Rafah in May 2004, under the cynical code name “Operation Rainbow”, for the alleged purpose of locating weapon-smuggling tunnels, although the army only found three such tunnels, at the cost of demolishing 167 houses. Adalah also brought evidence in the petition that in 2002 civilian properties in the

Jenin refugee camp had been demolished by the Israeli army after the Palestinian armed resistance had ended. Other cases cited include “preemptive attacks” against civilian properties, which the Israeli army claims had been or could have been used as bases for attacks on Israeli soldiers or settlers. Demolitions which the army has placed in this category have even included creating large military “buffer zones”.

After submitting the petition, Adalah filed a number of motions to try to prevent the Israeli military from carrying out threats to execute further mass home demolitions in Rafah and the border area between Gaza and Egypt. Adalah referenced a government plan discussing the creation of a “buffer zone”, and a Ministry of Defense tender for the construction of a massive trench south of Rafah, both involving the massive destruction of homes.



Rafah, 2004

In the state’s response to the petition, the Attorney General claimed that homes had only been demolished where there was a military necessity, and alleged that the military necessity exception did not require an “immediate” response to a threat. The petitioners countered that the military necessity exception must indeed be limited to actions taken in response to an immediate threat, relying on Article 53 of Geneva Convention IV and Art. 23 (g) of the Hague Regulations: “it is especially forbidden... to destroy or seize the enemy’s property, unless such destruction or seizure be imperatively demanded by the necessities of war.”

The Supreme Court dismissed the petition in 2005 in a three-page judgment. The court ruled that there was no need to hear the substantive claims made in the petition following a statement made by the Israeli military that it intended to halt punitive house demolitions. The court added that the petitioners reserved the right to petition it again if the military’s policy changed. By refusing to review the principle issues of the case, the court failed to examine the legality of the military’s conduct and essentially granted it continued impunity.

# Compensation and access to the Israeli courts

## *Adalah et al. v. The Minister of Defense et al.*

*In July 2005, the Israeli Knesset voted to bar Palestinians from the Occupied Palestinian Territory (OPT) from seeking compensation from Israel for injuries and damages caused to them by the Israeli security forces. The amended Civil Wrongs (Liability of the State) Law thereby created a sweeping exemption for individuals responsible for cases of death or injury, including in cases of damages caused by the random or deliberate opening of fire, torture, and for the looting of civilian property, and discouraged investigations into abuses.*

In enacting the no-compensation law, the Knesset also gave the Defense Minister the authority to announce any area outside of the state of Israel a “conflict zone,” even if no war-related activity had taken place there. As a result, anyone injured in such an area was likewise stripped of the right to seek compensation in Israeli courts. The ban on compensation claims was also extended to citizens of “enemy states” and activists or members of organizations designated as “terrorist” and applied retroactively from 29 September 2000, the day of the outbreak of the Second Intifada, and for claims already pending before the courts.

Adalah petitioned the Supreme Court against the law in September 2005, together with human rights organizations HaMoked and ACRI, on behalf of a wide coalition of NGOs.<sup>32</sup> The petitioners argued that the

law grossly violated international humanitarian law and international human rights law, as well as the constitutional rights to life, bodily integrity, dignity, property and access to the courts protected by Israeli law.

During deliberations on the petition, the organizations provided a list of cases in which the state had asked courts to reject individual cases on the basis of the amended law. The cases include a request by the state to reject a lawsuit filed by a family whose house had been damaged and looted by Israeli soldiers while it was seized for two weeks, cases involving houses that were badly damaged during the army’s demolition of a neighboring house, and civilians who were shot outside the context of a military operation, including an eighteen-month-old infant and his father.

**In December 2006, the Supreme Court, in a unanimous, landmark ruling delivered by nine justices, decided that the State of Israel could not exempt itself from paying compensation to Palestinians in the West Bank and Gaza harmed by the Israeli military, invalidating a provision of the amendment.<sup>33</sup>** As a result, Palestinians who have been harmed by the Israeli military since September 2000 were again permitted to seek compensation in Israeli courts. The court, however, did not strike down a provision of the law that exempts Israel from paying compensation to citizens of “enemy states” or “activists or members of terrorist organizations.”

In the aftermath of this legal victory, however, Israel continues to ensure that it is not liable for compensation claims arising from the abuses committed by its security forces in the OPT. For example, Israel imposes strict and sometimes impossible conditions for tort claims

brought by Palestinians, including that the Palestinian plaintiff must submit an “intent to file a damages claim” to the authorities within 60 days of the event, and to file the lawsuits within two years of the event. The high mandatory financial security guarantees to insure the state’s expenses also deter many potential plaintiffs, especially from Gaza, where particularly high fees are demanded. For example, in the case of the Samouni family, dozens of whom were killed and injured, the guarantee was set at over NIS 1 million (over US \$260,000/€200,000). Additionally, Palestinians from Gaza are refused entry permits to Israel, which leads to tort claims against the Israeli military being dismissed because claimants and their witnesses cannot appear at court hearings to give their testimonies, question their witnesses, or undergo obligatory Israeli medical examinations. Adalah petitioned the Supreme Court against this policy in September 2012.

Meanwhile, in July 2012, the Knesset sought to bypass the Supreme Court’s decision from 2006 by passing a new amendment to the Civil Wrongs (Liability of the State) Law that adds further obstacles to tort actions against the Israeli military brought by Palestinians from the OPT. One of its most dangerous provisions redefines the term “act of war” by replacing a requirement for there to be imminent danger to the life and body of Israeli soldiers with the vaguer stipulation that an act of war should be considered such in “terms of its nature; including the purpose, location, or the danger on the security force as a result of conducting the operation”. Further, while the original law exempted the state from its responsibility for injuries and damages inflicted on residents of enemy states, the amendment adds “persons who are not citizens

or residents of Israel, and are residents of a territory outside Israel that has been declared an ‘enemy territory’ in a governmental decree.” This provision is intended to apply to the Gaza Strip, and the exemption applies retroactively to 12 September 2005, the date of Israel’s “Disengagement” from Gaza. Adalah, together with the Palestinian Center for Human Rights, Al Mezan and private lawyers, is monitoring the implementation of this new law through numerous pending compensation cases.



The Erez border crossing between Gaza and Israel



# Publications

Adalah's major publications of the past 15 years

## ***Adalah's Review***

*Adalah's Review* is our flagship legal journal published in Arabic, Hebrew and English. It is intended to open a critical stage for discussion of Israeli law, the legal system and legal discourse, focusing primarily on subjects that relate to the status of the Palestinian minority in Israel.

### ***Volume 1 – Politics, Identity and Law (Fall 1999)***

The first volume of *Adalah's Review* aims to open a multi-disciplinary, multi-layered discussion about politics, law and identity, with most authors addressing the politics of Arab Palestinian identity in the Israeli legal area. It includes articles by Raef Zreik, Gad Barzilai, Samera Esmeir and Gadeer Nicola, among others.

### ***Volume 2 – Land (Fall 2000)***

This volume focuses on the issue of land, which is the main subject responsible for the existing tensions between the state and the indigenous Palestinian community. It includes articles by Ronen Shamir, Marwan Dalal, Usama Halabi, Orna Kohn, Neta Ziv and Hassan Jabareen, among others. It also features a special discussion of the Supreme Court's judgment of March 2000 in *Qa'dan*, concerning the right of an Arab family to live in a Jewish town in Israel.

### ***Volume 3 – Law and Violence (Summer 2002)***

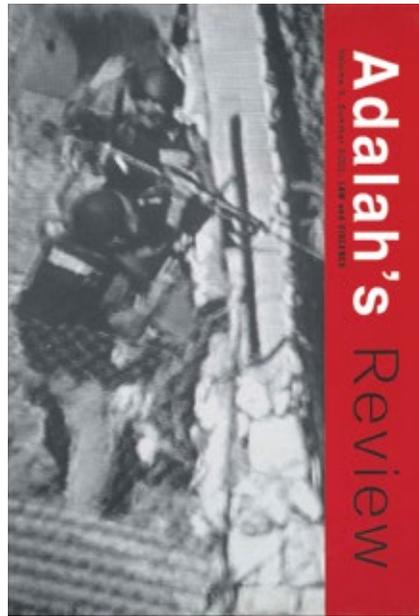
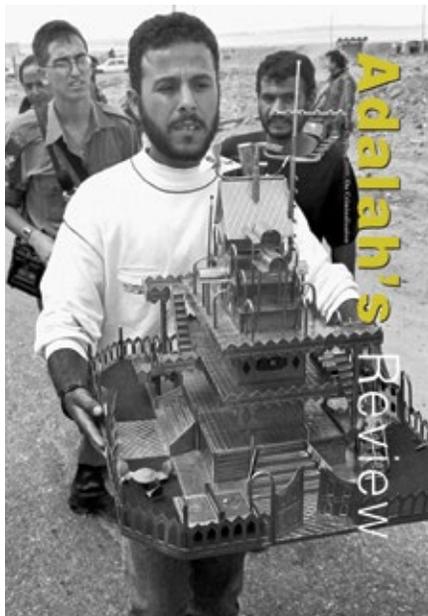
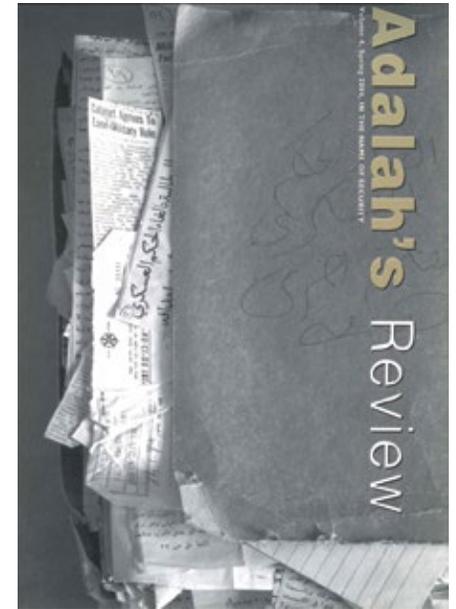
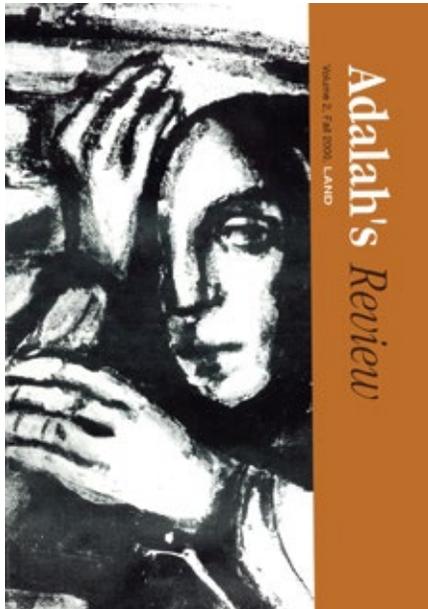
The third volume of *Adalah's Review* tries to offer an understanding of the ways in which law exists in relationship to violence. Its point of departure was the October 2000 protest demonstrations, which it resituates in the longer history of state violence against Palestinian citizens of Israel. It includes articles by Rina Rosenberg, Nimer Sultany, Jamil Dakwar, Leora Bilsky and Yousef Taiseer Jabareen, among others.

### ***Volume 4 – In the Name of Security (Spring 2004)***

This volume presents articles from lawyers, academics and human rights activists who offer interdisciplinary discussions of the concepts and workings of law and security in Israel. It includes a framework introduction by Samera Esmeir and articles by Farid Ghanem, Alina Korn, Areen Hawari, Hillel Cohen, Alan Feldman and Rhoda Kananneh, among others.

### ***Volume 5 – On Criminalization (Spring 2009)***

Volume 5 focuses on the ways in which forms of political activity and resistance are criminalized by the State of Israel, on pretexts of "security offenses" or "terror". It contained articles by Abeer Baker, Barak Medina and Ilan Saban, Richard Falk and Khalid Ghanayim, among others.



Reader's review:  
"Very quietly, without recourse to public relations or marketing campaigns, Adalah's Review ... has become one of the most interesting, original and readable journals in Hebrew today."

Jonathan Yovel teaches law and philosophy at Haifa University, Ha'aretz, 12 November 2004

# Makan

Makan is Adalah's journal on law, land and planning, published in Arabic, Hebrew and English. The aim of the journal is to provide updated research and a forum for discussion on urban planning issues in general, and the land planning situation in Israel, in particular, especially as related to the Arab minority.

## ***Volume 1 – The Right to the City (Spring 2006)***

Volume 1 of Makan consists of three theoretical articles by Yosef Jabareen, Haim Yacobi and Tovi Fenster on the theme of “The Right to the City”, as applied to the Palestinian minority and women in Israel; short articles describing instances of “Segregated Spaces” using case studies from Adalah and other human rights organizations; and excerpts from Adalah’s case against the Jewish National Fund.



## ***Volume 2 – The Right to a Spatial Narrative (Winter 2010)***

The second volume of Makan explores the concept of the right to a spatial narrative, presenting three academic articles on aspects of the policies and spatial practices of Israel by Ilan Pappé, Mahmoud Yazbak and Ravit Goldhaber, and excerpts from Adalah’s objection to the regional plan for the Be’er Sheva metropolitan area.

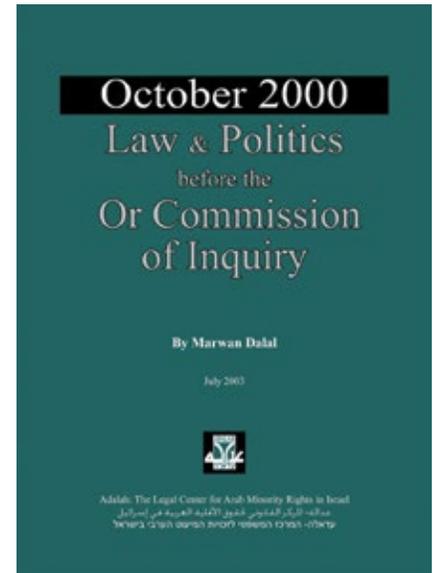
# Publications on the October 2000 Killings

## ***October 2000 – Law and Politics before the Or Commission (October 2003)***

This report presents the principal issues raised by Adalah in the concluding arguments that it presented to the Or Commission. It discusses the main causes of the October 2000 protests, and the establishment of the Commission, its mandate, its proceedings, and warnings it issued.

## ***The Accused – Part I (October 2006)***

This report reveals the failure of the Police Investigations Department (Mahash) to investigate the October 2000 killings, demonstrating how Mahash concealed essential facts from the public and issued a falsified report, and illuminating the masked and undeclared “collaboration” between Mahash investigators and some of the police officers under investigation.



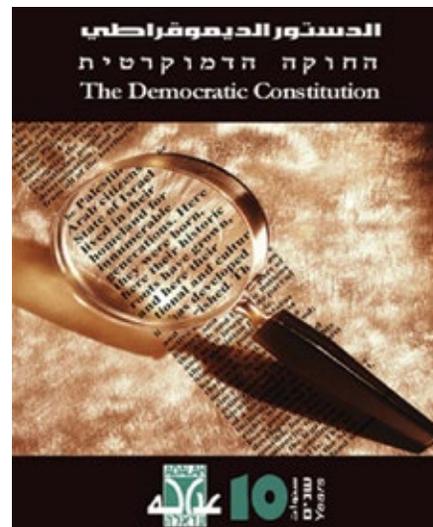
## ***The Accused – Part II (January 2011)***

The Accused – Part II continues on from The Accused – Part I by investigating the decision of former Israeli Attorney General Menachem Mazuz to close all of the files into the October 2000 events with no indictments submitted against any police officer, commander or political leader.

## Other publications

### *The Democratic Constitution (2007)*

Adalah launched a draft “Democratic Constitution” on the 10th Anniversary of its establishment, in response to numerous constitutional proposals being discussed in the Israeli Knesset. The Democratic Constitution calls for a democratic, bilingual and multi-cultural state. Adalah modeled the Democratic Constitution on constitutions adopted by democratic countries, and international human rights conventions and universal principles of human rights contained in UN declarations. The document contains 63 articles, which set forth provisions on citizenship, official languages, model mechanisms for the participation of the Arab minority in decision-making in the Knesset, as well as rights and freedoms for all residents and citizens including equality and anti-discrimination, distributive and restorative justice, particularly concerning land and property, social and economic rights, and rights in court and criminal justice.



### *Prohibited Protest (September 2009)*

This report exposes the ways in which the Israeli law enforcement agencies responded to anti-war protests by Palestinian and Jewish citizens of Israel during Israel’s “Cast Lead” military invasion of the Gaza Strip in 2008-2009. It shows how the police, the State Prosecutor’s Office, the GSS and the courts made arrest and lengthy detention the easiest and fastest method of suppressing the protest against the military operations.

## ***Exposed: The Treatment of Palestinian Detainees during Operation Cast Lead (June 2010)***

This report was published by Adalah and the Public Committee Against Torture in Israel. It discusses violations of Palestinian detainees' rights by the Israel military during its invasion of Gaza, "Operation Cast Lead", in December 2008-January 2009. The report is based on testimonies given by civilian detainees arrested by the Israeli army and interrogated in Israel.

## ***Targeted Citizen (2010)***

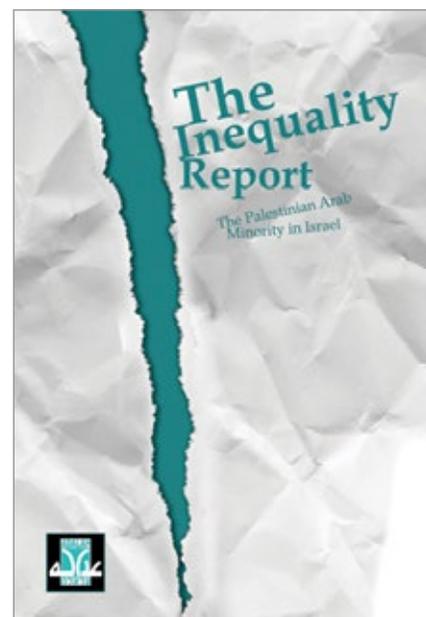
Targeted Citizen is a short film produced by Adalah on discrimination against Arab citizens in Israel, with a soundtrack by Palestinian rap group DAM. It



was directed and written by Rachel Leah Jones. Targeted Citizen was released in tandem with the Inequality Report, as part of Adalah's "Inequality Series".

## ***The Inequality Report (March 2011)***

The Inequality Report sets out some of the legal and political structures that allow for systematic discrimination against members of the Palestinian Arab minority in Israel, and fuel inequality between Arab and Jewish citizens of the state.

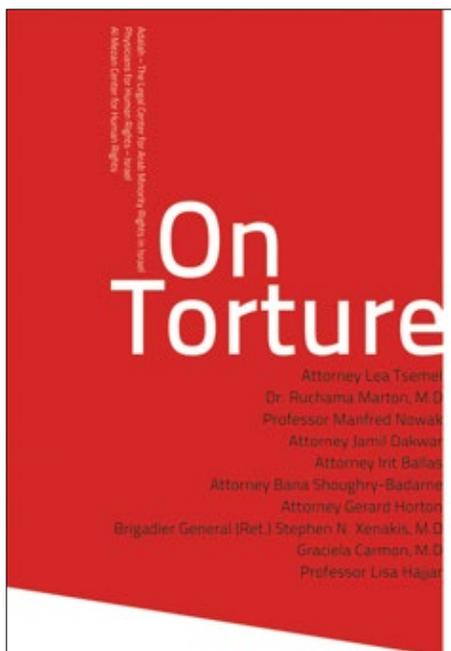
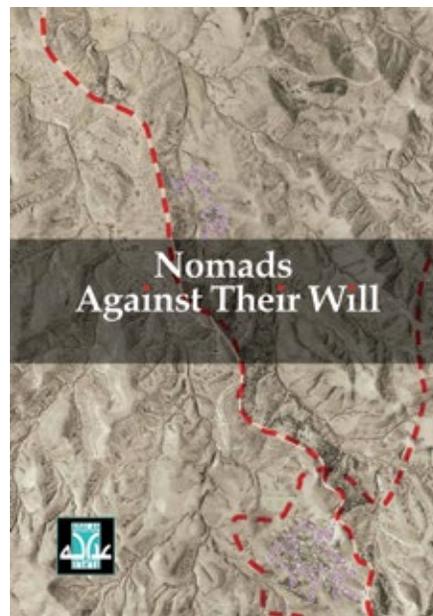


### ***Nomads Against Their Will (September 2011)***

This report details the state's plans to displace and dispossess members of the Abu al-Qi'an tribe, residents of the Arab Bedouin "unrecognized village" of Atir-Umm al-Hieran, for whom expulsion has been an integral part of life since 1948. Members of the tribe were first expelled by the Israeli military government from their original land in "Khirbet Zubaleh", which they had cultivated for centuries.

### ***On Torture (June 2012)***

On Torture is an edited journal of essays by Palestinian, Israeli and international legal and medical experts and practitioners. It is based on presentations given during an international experts' workshop convened by Adalah, Physicians for Human Rights-Israel and Al Mezan and held in Jerusalem.



### ***Adalah's Newsletter (monthly periodical)***

Adalah published the first volume of its electronic newsletter in May 2004, and celebrated its 100th volume in January 2013. Each month the newsletter is published in English, Arabic and Hebrew, containing legal analysis, articles, commentaries, and updates on Adalah's work. The newsletter has approximately 20,000 subscribers.

# Thank you

Adalah wishes to take this opportunity to repeat its sincere appreciation of the Galilee Society and the Arab Association for Human Rights, the two Arab NGOs in Israel that jointly founded the initial project of Adalah, and provided it with guidance, consultation and financial and administrative support in its early days. Without the faith and leadership of these two organizations the concept of Adalah could not have got off the drawing board, and for this we remain truly grateful. Special thanks go to the Galilee Society for giving Adalah the space to grow into an independent association and for its extended support in the form of facilities and equipment. Many thanks are also in order to all of the individuals who shared their experience and knowledge by serving on Adalah's Boards of Directors and committees, and volunteering in Adalah's offices. Last but not least, we sincerely appreciate and thank all of the foundations and individual donors who have contributed to Adalah with their generous support.

## **Adalah's current foundation donors:**

The Ford-Israel Fund (USA)

Open Society Development Foundation (Switzerland)

OxfamNOVIB (The Netherlands)

The European Union

New Israel Fund (USA and Israel)

The Federal Department of Foreign Affairs (Switzerland)

EED (Germany)

Christian Aid (Great Britain)

Broederlijk Delen (Belgium)

Sigrid Rausing Trust (Great Britain)

NGO Development Center (Ramallah). Consists of the pooled funds of the Swiss Agency for Development and Cooperation (SDC), the Royal Danish Representative Office to the PA, the Swedish International Development Cooperation (Sida) and the Netherlands Representative Office to the Palestinian Authority (PA) channeled through the NGO Development Center (NDC) – HR/GG secretariat.

ACSUR – Las Segovias (Spain)

UNDP (Ramallah)

Medico International (Germany)

# Staff and Board 2012

## ***Board of Directors***

Dr. Hala Khoury-Bisharat, Advocate, Chairperson  
Hussein Abu Hussein, Advocate  
Dr. Khaled Abu Asbah  
Khalil Elmour  
Odeh Bisharat  
Salma Wakim, Advocate  
Dr. Mas'ud Hamdan

## ***Audit Control Committee***

Jeries Rawashdeh, Advocate  
Khaled Daghsh, Advocate

## ***Staff***

Hassan Jabareen, Advocate, Founder and General Director

## **Legal Department**

Orna Kohn, Advocate, Director of the Criminal Justice Unit  
Suhad Bishara, Advocate, Director of the Land and Planning Rights Unit  
Sawsan Zaher, Advocate, Director of the Economic, Social and Cultural Rights Unit  
Rima Ayoub-Assaf, Advocate  
Fatmeh El-'Ajou, Advocate  
Aram Mahameed, Advocate  
Nadeem Shehadeh, Law Fellow  
Jalal Dakwar, Law Fellow  
Fady Khoury, Legal Trainee  
Sohair Asad, Legal Trainee  
Mohammad Bassam, Law Student  
Maria Zahran, Law Student  
Shada Amar, Law Student  
Myssana Morany, Law Student

## **International Advocacy, Public Relations and Media Department**

Rina Rosenberg (Jabareen), Esq., International Advocacy Director  
Katie Hesketh, Publications Coordinator  
Salah Mohsen, Media Coordinator  
Alyssa Bernstein, International Advocacy Coordinator  
Jenny Nyman, Multi-Media Coordinator  
Yasmine Halevi, Hebrew Website Editor  
Majd Kayyal, Arabic Website Editor  
Ran Shapira, Hebrew Publications Editor

## **Finance and Administration**

Ghassan Kharouba, Finance Director  
Fathiyya Hussein, Office Manager  
Basheer Al-Saleh, Accountant  
Reem Zoabi, Secretary  
Sohair Badarna, Secretary  
Aliya Saadi, Maintenance

## **Beer el-Sabe Office**

Dr. Thabet Abu Rass, Director of the Naqab Office  
Nadia Ben-Youssef, Consultant  
Mohammad Mahajna, Field Worker

## **Interns**

Sarena Hayer  
Lauren Herman  
Amjad Iraqi  
Aaron Kates-Rose  
Deryck Ramcharitar  
Sirene el-Salah  
Ahlam Sawetat  
Fadi Swidan

**Adalah's staff at its former offices in Shafa'Amr**



From left: Media Coordinator Eva Mousa and Attorney Gadeer Nicola



Photo from Ha'aretz, 23 December 2002



Adalah's staff and former head of Adalah's Board, Attorney Ghassan Aghbariyya, meeting with Physicians for Human Rights-Israel



Attorneys Rina Rosenberg, Abeer Baker and Jamil Dakwar



Attorneys Muayed Miari and Jamil Dakwar



Adalah's first Board meeting, 1996. From left: Dr. Hala Espanioly, Attorney Raef Zreik, Accountant Basheer Jeraisy, Chairman of the Board Attorney Muhammed Dahleh, Attorney Eyad Rabi, Rina Rosenberg, and Yousef Jabareen

7. המיסודים: (לעמותה חדשה)  מייצגי האגודה, לצורך רישומה כעמותה, עפ"י החלטת האסיפה הכללית, בפרוטוקול שיצורף לבקשה זו.

שם משפחה	שם פרטי	שם האב	ס.ב.	מס' זהות/מספר תאגיד	שנת לידה	רחוב/שכונה	מס' בית	ישוב	מיקוד	מס' טלפון	חתימה
1. עבדון	אמן	עבדון	05895046	1967	רחוב תל אביב	6	תל אביב	37612	04-8242211	[Signature]	
2. קרנש	עיסו	עבדון	00204584	1920	רחוב תל אביב	34	תל אביב	16000	04-6553370	[Signature]	
3. עבדון	מחמד	עבדון	023131121	1967	רחוב יוקנאט	19	תל אביב	76972	06-600723	[Signature]	
4. עבדון	עיסו	עבדון	059523364	1960	רחוב תל אביב	-	תל אביב	30055	04-6780122	[Signature]	
5. עבדון	עיסו	עבדון	053837639	1956	רחוב תל אביב	-	תל אביב	91204	04-9585124	[Signature]	
6. עבדון	עיסו	עבדון	023282122	1968	רחוב תל אביב	18	תל אביב	35051	02-6276668	[Signature]	
7. עבדון	עיסו	עבדון	026438614	1973	רחוב תל אביב	16.84	תל אביב	04-8527828	04-8527828	[Signature]	
8. עבדון	עיסו	עבדון	059495533	1965	רחוב תל אביב	15/6	תל אביב	06-864270	06-864270	[Signature]	
9. עבדון	עיסו	עבדון	05990371	1966	רחוב תל אביב	11	תל אביב	03-2397022	03-2397022	[Signature]	
10. עבדון	עיסו	עבדון	033826695	1965	רחוב תל אביב	11	תל אביב	04-8242211	04-8242211	[Signature]	

לאחר שהוחרנו כחוק כי עלינו לומר את האמת וכי נהיה צפויים לעושים הקבועים בחוק אם לא נעשה כן, הננו מצהירים בזאת:  על נכונותנו לייסד עמותה בהתאם למרטים המופיעים בטופס זה.

לתאגיד מייסד:

2. על נכונותנו כי נציגנו יכתב כחבר הועד בעמותה זו

שם התאגיד:

שם הנציג:

מס' ת.ד.:

על תצהיר זה יחתמו מורשי/י החתימה בשם התאגיד: א:

3. הננו מצהירים כי אלה שמותינו, אלה חתימותינו ותוכן תצהירנו אמת.

חתימות המיסודים או מייצגי האגודה: (תאגיד מייסד יחתום באמצעות הרשאים לחיבו, בצורך חותמת התאגיד)

1. [Signature]

2. [Signature]

3. [Signature]

4. [Signature]

5. [Signature]

6. [Signature]

7. [Signature]

8. [Signature]

9. [Signature]

10. [Signature]

הנני מאשר כי ציטוט זה הופיעו בפני עויד [Signature] אשר שמותיהם ומס' ת.ד. שלהם, ואז מט"י תאגיד מופיעים לעיל, ולאחר שהוחרתי אותם כי עליהם להצהיר את האמת, וכל יהיו צפויים לעושים הקבועים בחוק אם לא יעשו כן, אישור את נכונות הצהרתם וחתמו עליה בפני.

תאריך גיבוי

ערך דין

נא לא לנקוט בכל פעולה בשם עמותה עד לקבלת תוצאות הרישום על רישום העמותה

מס' ת.ד. 311 זכ"ק

תאריך גיבוי  
ערך דין  
מס' ת.ד. 311 זכ"ק

16-11-1997

02-6294807, 02-6294722

רח' הלל 24, ירושלים מיקוד 94581, ת.ד. 2420, מיקוד 1023

קבלת קהל במיניירות: בימים א' ג' ה' בשעות: 8:00-12:00

קבלת קהל ע"י יועץ משפטי עפ"י תאום טלפוני מראש ב-13:30

קבלת מניות טלפונית בימים א-ה' בשעות 8:00-13:30

בימי שישי וערבי חג אין קבלת קהל ו/או טלפוני

Founding registration document of Adalah

List of signatories:

Hassan Jabareen, Mansur Kardosh, Mohammad Zeidan, Samer Mouallem, Basel Ghattas, Muhammed Dahleh, Samera Esmeir, Raef Zreik, Eyad Rabi, Rina Rosenberg

## (Endnotes)

- 1 HCJ 8036/07 *Fatina Ebriq Zubeidat et al. v. The Israel Land Administration* (published in Nevo, 13 September 2011).
- 2 HCJ 2504/11 *Adalah et al. v. The Knesset et al.* (pending).
- 3 HCJ 9205/04 *Adalah v. The Israel Land Administration et al.* (pending).
- 4 Different Motions (Magistrates' Court – Kiryat Gat) 2137/09 *Mousa Nasasra et al. v. The State of Israel* (published in Nevo, 6 December 2011).
- 5 Civil Appeal 4067/07 *Jabareen et al. v. The State of Israel et al.* (published in Nevo, 3 January 2010).
- 6 Elections Appeal 131/03, *The Central Elections Committee for the 16th Knesset v. Ahmed Tibi et al.* PD 57(4) 1.
- 7 Elections Appeal 561/09 *The National Democratic Assembly et al. v. The Central Elections Committee for the 18th Knesset et al.* (published in Nevo, 7 March 2011).
- 8 HCJ 7052/03 *Adalah et al. v. The Minister of Interior et al.* PD 61(2) 202. An English translation of the Supreme Court's decision is available at: [http://elyon1.court.gov.il/files\\_eng/03/520/070/a47/03070520.a47.pdf](http://elyon1.court.gov.il/files_eng/03/520/070/a47/03070520.a47.pdf)
- 9 HCJ 466/07 *Zahava Gal-On et al. v. The Attorney General* (published in Nevo, 11 January 2012).
- 10 HCJ 3429/11 *The Alumni Association of the Arab Orthodox School in Haifa et al. v. The Knesset et al.* (published in Nevo, 5 January 2012). Excerpts of the petition translated to English are available at: <http://www.adalah.org/upfiles/Excerpts%20from%20Nakba%20Petition%20English%20Final.pdf>
- 11 HCJ 2773/98 and HCJ 11163/03 *The High Follow-up Committee for the Arab Citizens in Israel et al. v. The Prime Minister of Israel* (published in Nevo, 27 February 2006). An English translation of the Supreme Court's decision is available at: [http://elyon1.court.gov.il/files\\_eng/03/630/111/a18/03111630.a18.pdf](http://elyon1.court.gov.il/files_eng/03/630/111/a18/03111630.a18.pdf)
- 12 HCJ 2848/05 *Fatimah Abu Sabila (Ali) et al. v. The Ministry of Education et al.* (published in Nevo, 12 November 2012).
- 13 HCJ 7562/09 *Fatimah Abu Sabila (Ali) et al. v. The Ministry of Education et al.* (published in Nevo, 12 November 2012).
- 14 HCJ 7115/97 *Adalah et al. v. The Ministry of Health et al.* Tak-El 98(1) 214.
- 15 HCJ 7245/10 *Adalah v. The Minister of Welfare and Social Affairs* (pending).
- 16 HCJ 10054/09 *Wadad El-Hawashly et al. v. The Ministry of Health* (published in Nevo, 6 March 2012).
- 17 Civil Appeal 9535/06 *Abdullah Abu Musa'ed et al. v. The Water Commissioner and the Israel Land Administration* (published in Nevo, 5 June 2011). An English translation of the Supreme Court's decision is available at: <http://www.adalah.org/upfiles/2012/Supreme%20Court%20Ruling.%20Civil%20Appeal%20No.%209535.06%20-%20Abu%20Masad,%20Right%20to%20Water%20-%20English.pdf>
- 18 Civil Appeal 2541/12 *Salib Abu al-Qi'an v. The Government Authority for Water and Sewage* (published in Nevo, 20 February 2013).
- 19 Civil Lawsuit (Haifa District Court) 217/05 *Haneen Naamnih et al. v. The University of Haifa* PD 764(2) 652.
- 20 HCJ 1113/99 *Adalah et al. v. The Minister of Religious Affairs et al.* PD 54(2) 164. An English translation of the Supreme Court's decision in the cemeteries petition is available at: [http://elyon1.court.gov.il/files\\_eng/99/130/011/i13/99011130.i13.pdf](http://elyon1.court.gov.il/files_eng/99/130/011/i13/99011130.i13.pdf)
- 21 HCJ 2422/98 *Adalah et al. v. The Minister of Labor and Social Welfare et al.* (unpublished decision).
- 22 HCJ 4438/97 *Adalah et al. v. The Ministry of Transportation et al.* (published in Nevo, 25 February 1999).
- 23 HCJ 4112/99 *Adalah et al. v. The Municipalities of Tel Aviv-Jaffa et al.* PD 56(5) 393. An English translation of the Supreme Court's decision is available at: <http://www.adalah.org/features/landlangrep/4112decision-eng.pdf>

- 24 HCJ 7311/02 *The Association for Support and Defense of Bedouin Rights in Israel et al. v. The Municipality of Be'er Sheva et al.* (published in Nevo, 22 June 2011).
- 25 HCJ 10532/04 *Sheikh Abdullah Nimr Darwish et al. v. The Minister of Religious Affairs et al.* (unpublished decision).
- 26 HCJ 9416/10 *Adalah v. The Ministry of Public Security* (pending).
- 27 *The Public Commission to Examine the Maritime Incident of 31 May 2010, Second Report – The Turkel Commission: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law*, February 2013, available at: <http://turkel-committee.gov.il/content-157-c.html>. The Committee, appointed by the government, was composed of Israeli and international legal and military experts.
- 28 HCJ 7867/04 *Fida Kawaer et al. v. The Israel Prison Service* (unpublished decision).
- 29 Full case citations and English translations of the Supreme Court's decisions in these cases are available at: <http://www.adalah.org/eng/?mod=articles&ID=1854>. For an analysis of these cases, see: Hassan Jabareen, "Transnational Lawyering and Legal Resistance in National Courts: Palestinian Cases before the Israeli Supreme Court," 13 *Yale Human Rights & Development Law Journal* 239 (2010).
- 30 HCJ 3799/02 *Adalah et al. v. Yitzhak Eitan, Commander of the Israeli Army in the West Bank et al.* PD 60(3) 67. An English translation of the Supreme Court's decision is available at: [http://elyon1.court.gov.il/files\\_eng/02/990/037/A32/02037990.a32.pdf](http://elyon1.court.gov.il/files_eng/02/990/037/A32/02037990.a32.pdf)
- 31 HCJ 4969/04 *Adalah et al. v. IDF Major General, Central Command, Moshe Kaplinski et al.* (published in Nevo, 13 July 2005).
- 32 HCJ 8276/05 *Adalah et al. v. The Minister of Defense et al.* PD 62(1) 1.
- 33 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](http://elyon1.court.gov.il/files_eng/05/760/082/a13/05082760.a13.pdf)



**Adalah** (“Justice” in Arabic) is an independent human rights organization and legal center. Established in November 1996, it works to promote and defend the human rights of Palestinian Arab citizens of Israel, 1.2 million people, or 20% of the population, as well as Palestinians living in the Occupied Palestinian Territory (OPT).

Adalah brings impact litigation cases and legal interventions before Israeli courts and state authorities; provides legal consultation to individuals, NGOs, and institutions; appeals to international human rights institutions and fora; organizes legal seminars and conferences; publishes reports and analysis of critical legal issues; conducts extensive media outreach locally and internationally; and trains law students and new lawyers in human rights and legal advocacy.

This report details Adalah’s landmark litigation and publications since the establishment of the organization. Its pages illuminate the day-to-day human rights violations faced by Palestinians in Israel and the OPT, including the rights to education, health, family life, land and property, freedom of expression, and equality/equal treatment before the law.

