



## ADALAH'S 2005 ANNUAL REPORT OF ACTIVITIES

### Executive Summary

Issued April 2006

**Adalah's 2005 Annual Report of Activities** highlights Adalah's key activities in 2005, our ninth-year anniversary. As this report reflects, Adalah undertook a wide range of legal representations and conducted numerous other advocacy and educational initiatives in 2005 of crucial importance in promoting and defending the rights of Palestinian citizens of Israel.

Adalah ("Justice" in Arabic) is an independent human rights organization, registered in Israel. Established in November 1996, it serves Arab citizens of Israel, numbering over one million people or close to 20% of the population. Adalah works to protect human rights in general and the rights of the Arab minority in particular. Adalah's main goals are to achieve equal individual and collective rights for the Arab minority in Israel in different fields including land rights; civil and political rights; cultural, social, and economic and rights; religious rights; women's rights; and prisoners' rights. Adalah is the leading NGO that utilizes "legal measures," such as litigating cases before the Israeli courts and appealing to governmental authorities based on legal standards and analysis to secure rights for Palestinian citizens of the state. Adalah intensively addresses issues of discrimination against Palestinian citizens of Israel as a group, as a national minority, and speaks from a minority perspective in its legal interventions.

In order to achieve these goals, Adalah: brings cases before Israeli courts and various state authorities; advocates for legislation; provides legal consultation to individuals, non-governmental organizations, and Arab institutions; appeals to international institutions and fora; organizes study days, seminars, and workshops, and publishes reports on legal issues; and trains stagaires (legal apprentices), law students, and new Arab lawyers in the field of human rights.

Adalah operates from two offices, one located in Shafa'amr in the north and the other located in Beer el-Sabe (Beer Sheva) in the south. In 2005, there were 65 members of Adalah's General Assembly, seven members of the Board of Directors, 23 members of staff including interns.

**The Welfare Association awarded Adalah one of three NGO Awards for Excellence in Achievement in 2005.** Among the criteria used in appraising NGOs were governance and organizational leadership, organizational structure, allocation of budget and resources, transparency, and programs and activities. The award also recognizes the outstanding impact that Adalah and the two other NGO recipients – The Women's Centre for Legal Aid and Counselling (West Bank) and the Young Scientists' Forum (West Bank) – have on the development and welfare of the Palestinian people. Adalah is a proud recipient of the award and a prize of US \$10,000.

### LEGAL ACHIEVEMENTS

Adalah undertook **73+ legal representations** in 2005 in the fields of Land and Planning Rights; Education Rights; Economic and Social Rights; Civil and Political Rights; Criminal Justice; Prisoners and Detainees' Rights; and the Rights of Palestinian Residents of the Occupied Palestinian Territories. Adalah also continued to work on seeking criminal accountability for the October 2000 killings and began work on a new Special Project: Adalah's Proposed Charter of Human Rights. **During 2005, Adalah obtained key successful court decisions and achieved other positive results on cases.**

Adalah's **Supreme Court litigation docket consisted of 29 cases** – nine new petitions and appeals were filed and representations continued on twenty pending cases. Adalah also filed nine new cases and followed up on seven cases in the District and Magistrate Courts, and submitted **23+** other new

P.O. Box 510 Shafa'amr 20200 Israel Tel: (972)-4-950-1610 Fax: (972)-4-950-3140

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شפרעם 20200 ת.ד. 510 טלפון: 04-9501610 פקס: 04-9503140

Email: [adalah@adalah.org](mailto:adalah@adalah.org)

<http://www.adalah.org>

legal interventions (appeals, objections, complaints, position papers and principle legal letters) to government ministries and agencies such as the Attorney General's (AG) Office, the Israel Land Administration (ILA), the Ministry of Justice's Police Investigations Unit ("Mahash"), the Israel Prison Service (IPS), and land planning authorities and committees. *In total, Adalah filed 18 new cases to the Israeli courts; 23+ new legal interventions; and followed-up on 32+ pending cases.* Highlights of our legal work follow.

Five years after the **October 2000 protest demonstrations**, Adalah continued to demand accountability for the killings of 13 unarmed Arab citizens of Israel by the police. In 9/05, **Mahash** released the final report of its investigation into the events of 2000. Mahash decided to close all files and to recommend that **no criminal indictments be issued** against any police officer or commander responsible for the killings. Adalah, as the legal representative of the victims' families, repudiated the report's findings at a press conference held jointly with the High Follow-up Committee for Arab Citizens of Israel and the victims' families, and documented its initial legal arguments against the report in a widely-disseminated analysis brief. In 9/05, Adalah also submitted a complaint to the State Comptroller against a decision to carry out a review of the Mahash investigatory file and its report in the State Attorney's (SA) Office. The basis of the complaint is the lack of impartiality of the current SA, who was the director of Mahash in October 2000 and a key party to Mahash's failure to investigate the events properly. In a later development, Mahash released the investigatory materials to Adalah in response to the organization's firm request. In addition to these activities, Adalah also issued a special edition of *Adalah's Newsletter*, held a conference to commemorate five years since the events, and published a special web-report all dedicated to the issue of Mahash's report into the October 2000 events. In a related case, **Adalah continued to represent the family of one of the thirteen victims**, 17 year-old Asil Asleh, in a motion submitted by Mahash to exhume and perform an autopsy on his body. Adalah contended that this move, vehemently opposed by the Asleh family, harms the dignity of the deceased and his family, as well as their religious beliefs. Adalah emphasized that Mahash had failed to undertake a serious investigation since October 2000, despite our repeated requests as well as the recommendations issued by the Or Commission in its final report of 2003. In 6/05, Mahash withdrew its request to exhume and perform an autopsy on Asil Asleh's body.

In 2005, Adalah also began to work on a proposed **Charter of Human Rights**. The purpose of this special project is to set forth, in a single document, the constitutional rights that, in Adalah's view as a human rights organization, must be guaranteed to all citizens by the Basic Laws of Israel or in a new constitution for the state. In recent years, several institutions have proposed draft constitutions for Israel, which all lack reference to basic issues of human rights. No human rights organization has set forth its vision of rights. Adalah's vision is that Israel should be a democratic, bi-lingual and multi-cultural state. The proposed constitutions fail to comprehensively protect the right of equality or equal protection, cultural rights, national minority rights and citizenship rights, or to address the question of religion and the state. Adalah's proposed Charter of Human Rights relies on comparative research of democratic constitutions such as those of South Africa and Canada, as well as international human rights covenants including the ICCPR, the ICESCR, the ICERD and the CEDAW. Adalah's document takes the current social and political situation in Israel into account and is therefore connected to the socio-political reality. A draft of the Charter will be distributed widely in 2006 to human rights organizations, Members of Knesset, law school faculty and students, other academics and the media.

Adalah's legal representations in the area of **Land and Planning Rights** challenged: discriminatory criteria and/or procedures of state institutions and agencies such as the ILA and the Jewish National Fund (JNF) against Arab citizens in the allocation of land; attempts to confiscate land; and administrative demolition orders against and the refusal to issue permits for Arab homes and buildings throughout Israel. In 2005, Adalah's **main achievements** included: (i) The extension by the Supreme Court of an injunction prohibiting the ILA from aerially spraying agricultural crops belonging to Arab Bedouin living in the unrecognized villages in the Naqab (Negev) with toxic chemicals; (ii) The submission of a master plan by the planning authorities for the Arab village of Kammaneh incorporating the unrecognized neighborhood of Al-Jelasi; (iii) The cancellation by the AG's Office of the military service criterion as a pre-condition for eligibility to lease land in the seven government-planned Arab Bedouin towns in the Naqab; (iv) The ILA's decision to include selected Arab villages in the north of Israel in a decision which awards discounts of up to 50% on the price of leasing land for residential building purposes; and (v) The obtaining of a permit for an Arab Bedouin family to allow them to build a home on their privately-owned land in the Jewish community town of Kamoun, after a seven-year legal struggle.

In the field of **Education Rights**, Adalah sought to increase access to education by seeking, for example, the establishment of schools and provision of transportation to educational facilities for Arab

Bedouin students in the north and the unrecognized villages in the Naqab, the pupils with the lowest level of educational attainment in the country. In 2005, Adalah's **main achievements** included: (i) The obtaining of a precedent-setting Supreme Court ruling that the gap in education between Arab Bedouin and Jewish students in the Naqab necessitates the adoption of a policy of affirmative action; (ii) The state's acknowledgement before the Supreme Court of discrimination against Palestinian Bedouin schools in the Naqab in the appointment of educational psychologists and its commitment to increase the number of such positions from 30% to 80% of the required positions within two years; (iii) The cancellation of the position of the deputy director of the Arab Education Division, through which the General Security Services (GSS) intervened in the appointments and dismissals solely of Arab teachers, principals and inspectors in the Division since the establishment of the state in 1948; (iv) The state's commitment to pave a road and repair a junction leading to an elementary school in an unrecognized village in the Naqab situated four km from the nearest main road. The poor state of the dirt road currently leading to the school prevents many of the school's 1,187 students from attending classes during bad weather; (v) The extension of an injunction preventing the closure of the Yaffa Arab Democratic School by the MOE, allowing over 150 Arab students to begin the new academic year at the school; (vi) The obtaining of a court order obliging the state to allow children from two Arab Bedouin villages in the Galilee to continue studying at their schools in a neighboring village; and (vii) The Led Municipality's agreement to register an eight-year old Arab child in a Jewish elementary school and three three-year old Arab children at a Jewish kindergarten in Led after initially refusing to do so on the ground that they are Arab.

Adalah's legal actions in the field of **Economic and Social Rights** primarily challenged discriminatory laws and multi-million dollar governmental economic decisions, including articles of tax laws which exclude Arab Bedouin towns in the Naqab from the list of localities eligible for income tax benefits, and a governmental decision awarding grants for the purchase of apartments in National Priority Areas, completely excluding Arab towns, as well as governmental decisions that deny access to sources of clean drinking water to hundreds of Arab Bedouin living in the unrecognized villages in the Naqab. Adalah's **main achievements** in 2005 included: (i) The state's cancellation of its decision to close the unemployment office in the Arab town of Kufr Kana which now continues to serve the 71,000+ Arab citizens in the area; (ii) The obtaining of a Supreme Court order compelling the state to open and operate a secure shelter for young Arab women at risk by 1/06, following the closure of the only such state-funded shelter for this group in 5/03; (iii) The restoration by the National Insurance Institute of all social benefits to a Palestinian woman citizen of Israel and her children wrongly stripped of their rights following the woman's marriage to a Palestinian man from Gaza; and (iv) The cancellation of regulations which discriminated against Palestinian citizens of Israel on the basis of nationality in contractual or maintenance work in all Jewish educational institutions in the Jerusalem District.

With its legal representations in the field of **Civil and Political Rights**, Adalah sought to protect the right of citizenship, the rights to political participation and freedom of expression, as well as religious rights. Adalah's **main achievements** in 2005 included: (i) The recognition of the four victims of the Shafa'amr terror attack of 8/05 as "victims of a hostile act" under Israeli law after they were initially denied such recognition and the awarding of due compensation to their families; and (ii) An order prohibiting the police from destroying a demonstration tent set up in the unrecognized village of al-Araqib in protest against the ILA's policy of destroying land cultivated by Arab Bedouin in the Naqab.

Throughout 2005, Adalah also continued its legal and advocacy campaign to cancel the racist **Nationality and Entry into Israel Law (Temporary Order) – 2003**. Following the law's enactment, Adalah initiated a petition to the Supreme Court challenging its constitutionality, filed motions for the freezing of the law and for urgent hearings on petitions challenging it, conducted lobbying against the law in the Knesset and government bodies, and engaged in extensive international legal advocacy and media outreach. The law bars all Palestinians from the OPTs from obtaining residency or citizenship status in Israel through marriage to Israeli citizens – primarily Palestinian citizens of Israel – solely on the basis of nationality. As a result of Adalah and NGO partners' lobbying efforts in 2005, the UN CEDAW Committee urged Israel to reconsider the law. Despite these efforts, the law was re-extended twice in 2005. In 7/05, Adalah submitted a motion for injunction to the Supreme Court, arguing that even new amendments to the law are arbitrary and inflict further violations of constitutional rights. The case remains pending for final judgment by the Supreme Court.

Adalah's **Criminal Justice** work focused on three main fields of interest: police brutality / misconduct (including seven death cases, in addition to other cases involving the Israeli military and other security forces), the criminalization of political dissent, and restrictions on freedom of movement. Here, Adalah's **main achievements** in 2005 included: (i) Mahash's withdrawal of its request to exhume and perform an autopsy on the body of 17 year-old Asil Asleh, one of thirteen Palestinian citizens of Israel

killed by police during the October 2000 protest demonstrations; (ii) The securing of an acquittal of three Arab political activists indicted for sedition and supporting a terrorist organization following alleged statements they made during 2002 Yom el-Ard (Land Day) demonstrations in the Naqab; (iii) The Nazareth Magistrate Court's decision not to convict two former parliamentary aides of MK Dr. Azmi Bishara on criminal charges relating to assisting elderly Palestinian citizens of Israel to travel to Syria to visit their refugee relatives, and its ruling that the purpose of their actions was a humanitarian goal of the highest level; (iv) The securing of the release of four Arab Bedouin citizens violently assaulted and detained by police officers following a protest by residents of an unrecognized village in the Naqab against home demolitions; and (v) The state's indictment of the Border Police Officer who shot an Arab citizen of Israel in Kufr Qassem for causing grievous bodily harm.

Adalah's legal representations in the area of **Prisoners and Detainees' Rights** focused on: the conditions of confinement of Palestinian political prisoners and detainees (both citizens of Israel and residents of the Occupied Territories incarcerated in Israel) classified under Israeli law as security prisoners or detainees, as well as prisoners and detainees' rights of access to legal counsel and fair hearings. Key representations undertaken in 2005 in this field included: (i) A demand to end court hearings in Shata Prison, due to their manifold legal defects. In 1/06, the Director of Courts Administration informed Adalah that, from mid-2/06, court hearings will no longer be held at the Prison; (ii) An urgent intervention demanding the cancellation of a bill proposing new and harsher criminal procedure laws for "non-Israeli residents" suspected of security offenses, which would create a two-track criminal procedure law governing investigation, interrogation and detention, one for Israelis and one for Palestinians; and (iii) A position paper sent to the Knesset's Constitution, Law and Justice Committee in 6/05 against a bill to amend the Prison Ordinance aimed at authorizing the IPS to restrict the access of political prisoners (classified under Israeli law as "security prisoners") to their attorneys.

Adalah's legal representations in the area of **the Rights of Palestinian Residents of the Occupied Palestinian Territories** (OPTs) challenged Israeli military operations against Palestinian civilians in the OPTs, and amendments to the Civil Wrongs Law, which deny residents of the OPTs the right to compensation from Israel for damages caused to them by the Israeli security forces. In 10/05, the Supreme Court issued a **landmark judgment**, ruling that the Israeli army's use of Palestinian civilians as "human shields" in military operations constitutes a violation of international humanitarian law (IHL) and is prohibited. The Court also banned the army's "prior warning order," which permitted soldiers to use civilians with their so-called "consent" for military arrest operations, ruling that it violated IHL. This decision was issued by the Chief Justice Aharon Barak, the Deputy Chief Justice Mishael Heshin, and Justice Dorit Benisch. The precedent-setting judgment was delivered after three years of litigation on the matter led by Adalah on behalf of six other leading Israeli and Palestinian human rights organizations. The case gained media coverage throughout the world and *Haaretz* voted this Supreme Court ruling the decision of the year for 2005.

## **INTERNATIONAL ADVOCACY ACHIEVEMENTS**

Adalah undertook a wide-range of international legal advocacy initiatives in 2005. With this work, Adalah strives to promote compliance by the Israeli government to abide by its international human rights treaty obligations and agreements *vis-à-vis* the Palestinian minority and to raise awareness in the international community over the institutionalized discrimination against Arab citizens of Israel in order to protect rights on the national level. Adalah uses favorable UN concluding observations and other statements, and other reports of governments and international human rights organizations in our petitions before the Israeli Supreme Court.

In 2005, Adalah submitted or contributed to more than **10** new interventions to UN human rights bodies and EU institutions and regularly provided information to foreign embassies in Israel. Adalah also conducted **more than 10** activities with international human rights organizations, NGO working groups and networks, and law schools and universities abroad.

2005 marked an important turning point for Adalah in terms of our international advocacy. Adalah strengthened its work before the **United Nations**, as well as its joint work with other **international human rights organizations, networks and law schools**, both by working together on local advocacy initiatives in conjunction with our legal representations, as well as by providing legal information and analysis for reports and campaigns and participating in and giving presentations at international conferences and legal training sessions.

Adalah was granted **UN ECOSOC special consultative status** in 2005, which will enable the organization to attend and circulate statements at ECOSOC meetings and to gain accreditation for

participation in relevant international conferences convened by the UN and in the meetings of their preparatory bodies.

As a member of the Working Group on the Status of Palestinian Women Citizens of Israel, Adalah wrote chapters of joint reports, worked before the **UN CEDAW** and obtained favorable concluding observations. The Committee emphasized 14 areas of concern and recommendations regarding Israel's violations of basic rights of Palestinian women citizens of Israel and Palestinian women living in the OPTs, covering issues including the right to equality, political participation and participation in public life, family unification, education, health and Palestinian Bedouin women citizens of Israel.

Adalah also submitted briefing papers to and met with **UN Special Rapporteur Prof. John Dugard**, who referenced Adalah as a source of information in his testimony on home demolitions before the Israeli Knesset's Constitution, Law and Justice Committee; participated for the first time in the **UN Commission on Human Rights, 61<sup>st</sup> session** by submitting oral and written interventions with FIDH, Al Haq, and Habitat International Coalition and lobbying members on Israel's discriminatory family unification law and policies, and the ILA's discriminatory allocation of lands on behalf of the Jewish National Fund (JNF); gave testimony to the **UN Special Committee to Investigate Israeli Practices Affecting Human Rights of the Palestinian People and Other Arabs of the Occupied Territories**, analyzing Israeli Supreme Court judgments on the disengagement and the OPTs; and submitted a report to the **UN CERD** illustrating Israel's failures to fulfill its obligations under the covenant, focusing in particular on legislation and practices governing the allocation of land and housing in Israel, attempts to censor political expression, the targeting of Arab MKs, the impunity granted for police and security force brutality, and citizenship and nationality restrictions. The CERD Committee's review of Israel's new reports will take place in 8/06. Adalah also served as a trainer on accessing UN mechanisms for advocacy purposes at the **International Service for Human Rights' (ISHR)** training program for NGOs held in Jerusalem.

Adalah participated in the activities of the **Euro-Mediterranean Human Rights Network (EMHRN)**, in particular, the EMHRN's Working Group on Israel/Palestine and the EMHRN's advocacy delegation to Brussels to publicize the EMHRN's second annual "Human Rights Review on the EU and Israel."; and participated in legal training seminars hosted by **Advocats Sans Frontières** (the ICC, universal jurisdiction, and international humanitarian law); **Dignity International and partners** (budget analysis and economic, social and cultural rights); the **National University of Ireland – Irish Human Rights Center (ICC)** and **Harvard University's IHL Project**. Joint local advocacy initiatives in conjunction with our domestic legal representations included work with **Human Rights Watch (HRW)**, **Amnesty International** and the **International Commission of Jurists** on the ban on family unification law and **HRW** on the new law under which Palestinians are prohibited from seeking compensation for damages caused by the Israeli military in Israeli Courts.

Adalah's lawyers also presented papers on Israel, Palestine and international law at international conferences hosted by conveners such the **Palestinian Solidarity Campaign** (University of London); the **School for Oriental and African Studies (SOAS)**; and **Al-Haq**. Adalah and Al-Haq partnered with the **Yale Law School – The Schell International Human Rights Law Clinic** for the first time in 2005 on a legal research project concerning a case that the organizations wish to bring before the Israeli Supreme Court. Yale law students wrote a comprehensive legal memo delineating points of international human rights law, IHL, and comparative constitutional law for the case, and conducted field research in the West Bank.

## **LEGAL EDUCATION ACHIEVEMENTS**

Adalah's legal education work in 2005 consisted of seminars and conferences; publications and reports; media outreach; and training for law students and recent law graduates. With this work, Adalah seeks to raise local interest in and international awareness of issues of discrimination against the Palestinian minority and human rights standards; to increase interest among Israeli, Arab and international academics and lawyers to conduct research on the rights of the Palestinian minority; to attain more extensive and positive local and international media coverage/visibility on Arab rights in Israel; and to create a new generation of Arab lawyers trained in human rights legal advocacy.

In 2005, Adalah's main achievements included holding **three well-attended public conferences / study days**. Adalah worked with partners to organize a study day on the CEDAW Convention and Israel convened by the Working Group on the Status of Palestinian Women Citizens of Israel (WG). WG members, guest academics and professionals spoke at the conference, attended by over 200 people. Adalah also hosted a study day on "The Experience of Legal Representation of Palestinian

Political Prisoners” in cooperation with the Municipality of Nazareth, attended by approximately 150 participants. The keynote speaker was Attorney Felicia Langer, who represented Palestinian and Syrian political prisoners before the Israeli military courts for 22 years. Adalah, the Follow-Up Committee for Arab Citizens in Israel and the Committee of the Martyrs’ Families held a conference entitled “October 2000: 5 Years”. The conference was attended by approximately 150 people. Adalah also organized a **five-week training course with the Israeli Bar Association** for the first time on “Constitutional Aspects in Criminal Law,” and gave 50 presentations on Adalah’s cases and important developments in Israeli and international law at universities, NGOs, schools and community centers throughout the year.

Adalah continued to produce and electronically distribute **Adalah’s Newsletter** in Arabic, Hebrew and English. Adalah published **12 volumes** of the *Adalah’s Newsletter* in 2005, and increased the number of **subscribers from 21,000 to 24,000** during the year. *Adalah’s Newsletter* highlights Adalah's activities and provides easy links to primary source legal documentation, as well as features original articles written by leading Israeli, Palestinian and international lawyers, legal academics, activists and Adalah’s staff and Board. It forms a major part of Adalah’s strategy to maximize our outreach efforts using tri-lingual internet-based media. Adalah also continued to update and maintain our **tri-lingual website** and created new web-reports on the **UN CEDAW** Convention and new developments regarding the **October 2000 killings**.

Adalah also completed **Volume 1 of *Makan, Adalah’s Journal of Law, Land and Planning* – “The Right to the City.”** *Makan* (“Place” in Arabic) is Adalah’s second academic journal, joining *Adalah’s Review*, and aims at providing updated research and a forum for discussion on land and planning issues in general, and in Israel in particular, especially as related to the Arab minority. *Makan* is the first journal in Israel to look at land and planning from the perspective of law and legal discourse.

Adalah contributed four articles, maps and photos to **F.A.S.T** (The Foundation for Achieving Seamless Territory in Israel), which were published in its art exhibition catalogue, **“One Land: Two Systems.”** The four articles delineated four examples of segregationist land planning policies in Israel.

In 2005, Adalah obtained wide and regular coverage and feature stories in the local Arabic, Hebrew and English media, including print, websites, and radio, as well as some international media coverage. The cases that received the **widest media coverage** in 2005 were: the human shields case, Adalah’s challenges to the JNF and ILA’s discriminatory land allocation policies, the law banning family unification, and the failure of “Mahash” to recommend indictments against those responsible for the October 2000 killings.

Adalah hosted one stagaire (legal apprentice), assisted one staff member toward pursuing a law degree, and organized a training seminar for new lawyers and stagaires.

## **INSTITUTIONAL DEVELOPMENT**

In 2005, Adalah held **in-depth planning and evaluation meetings with staff and Board**. These meetings allowed Adalah to function efficiently and effectively during the second part of the year, after Adalah’s General Director, Attorney Hassan Jabareen was appointed as a Yale World Fellow and began his fellowship at Yale University in 8/05. Acting General Director, Attorney Orna Kohn, and Acting Legal Director, Attorney Marwan Dalal fulfilled key staff leadership roles.

Adalah held its annual **General Assembly** meeting and Board elections in 2005; Adalah’s Board of Directors and Financial Committee met regularly to discuss and decide upon priorities and policies, and new members joined Adalah’s General Assembly.

Adalah was awarded new **multi-year grants** for our work in 2006-2008 by the Welfare Association-Open Society Institute (OSI) and the European Commission.

**Adalah’s 2005 Annual Report of Activities** is divided into four chapters: **I. Legal Action**, which includes detailed information on our Supreme Court litigation, as well as our legal representations before lower courts and other forums; **II. International Legal Advocacy**, which presents our work before the United Nations and the European Union, as well as staff and Board participation in conferences convened by international human rights organizations and law schools / universities; **III. Legal Education**, which discusses our seminars and conferences; publications and reports; media outreach; and training for law students and new lawyers; and **IV. Institutional Development**, which describes the organizational activities of the General Assembly, Board of Directors and staff.