



4 June 2009

Ambassador Michael Žantovský of the Czech Republic to the State of Israel
and the EU Presidency
Via Fax: 03-691-8286

Ambassador Ramiro Cibrian of the Delegation of the European Commission
to the State of Israel
Via Fax: 03-613-7770

Re: EU-Israel Association Council; new legal developments concerning the Arab minority in Israel; and request for urgent meeting

Dear Sirs,

We, Adalah and the Arab Association for Human Rights (HRA), are writing to you as human rights organizations based in Israel in view of the upcoming EU-Israel Association Council meeting on 15 June 2009 in Brussels. In this regard we wish to bring your attention to **crucial issues facing the Palestinian Arab minority in Israel and the new Israeli government**. Due to the urgency of the situation, we would like to meet with you at your earliest convenience.

We understand that one of the main issues to be discussed at the Association Council meeting is Israel's request for an upgrading of EU-Israel relations. In light of the EU's decision at the Council of Foreign Ministers on 8 December 2008 to reconfirm the upgrade and the ongoing discussions in that regard, we call on the EU to abide by its human rights commitments, as stipulated in the EU-Israel Association Agreement and the Action Plan within the European Neighbourhood Policy. **We urge that the EU confirm that the upgrading of EU-Israel relations is on hold, pending tangible progress in Israel's respect for human rights, and that any deepening of relations between the two parties be conditioned on Israel's fulfilment of these commitments.**

Since the EU's decision to reconfirm the upgrade, **there has been no improvement in the human rights situation on the ground, but rather a marked deterioration** in both the Occupied Palestinian Territory (OPT) and in Israel, most notably Israel's military offensive in Gaza of December 2008 and January 2009 and the ongoing siege and humanitarian crisis in Gaza. Other issues on the discussion table between the EU and Israel have been the commitment to the two-state solution; an increase in Israeli settlement activities; home demolitions and evictions, in particular in East Jerusalem; and the implementation of the EU-Israel Action Plan.

In its progress report of the EU-Israel Action Plan, dated 23 April 2009, the EC concluded that, **“Overall, the promotion and protection of the Israeli Arab minority [by Israel] remained unsatisfactory during the reporting period, particularly in areas like land allocation, housing, planning, economic development, investment in social infrastructure and justice.”** The EC also expressed its concern over high poverty rates, high unemployment rates, and the high drop-out and low graduation rates. Further major areas of concern included inequitable land

allocation;¹ the unrecognized Arab Bedouin villages in the Naqab (Negev); the Central Elections Committee's decision to ban two Arab parties from participating in the 2009 parliamentary elections, which the EC described as "a step backwards"; and the arrest of over 700 Palestinian citizens of Israel for demonstrating against the recent Israeli military operations in Gaza.

Adalah and HRA wish to outline **additional human rights concerns in 2008 and 2009** that have further damaged the fundamental basic rights of Palestinian Arab citizens of Israel, and that we believe constitute major setbacks and clear violations of the human commitments contained in the Association Agreement and Action Plan. As such, we believe that these issues should be raised by the EU in its discussions with Israel regarding any upgrading of future bilateral relations.

The Israeli general elections held in February 2009 brought a government coalition to power that represents another further shift to the political right. The ruling coalition is comprised of the Likud, Labor, Yisrael Beiteinu Shas, United Torah Judaism, and the Jewish Home. Many coalition parties, including the Likud and Yisrael Beiteinu, fought election campaigns that focused on the "threat" posed by Palestinian citizens of Israel. The main campaign slogan used by Yisrael Beiteinu was "No loyalty, no citizenship," and with this clearly racist message the party won 15 seats in the Knesset, making it the third largest party after the Likud and opposition party Kadima. Avigdor Lieberman, the head of Yisrael Beiteinu, who is known for his outspoken attacks on Arab citizens of Israel, serves as Deputy Prime Minister and Foreign Minister. **Significantly, in the new government, Yisrael Beiteinu controls the ministries that deal with law enforcement**, including the Ministry of Internal Public Security (the Police) and Lieberman recommended the appointment of Ya'akov Ne'eman, the Minister of Justice, who has a serious critique against the Israeli Supreme Court. The Chairperson of the Knesset's Constitution, Law and Justice Committee is also member of Yisrael Beiteinu.

Yisrael Beiteinu, the Jewish Home and the Likud, all members of the government coalition, are launching a flood of legislative offensives against the Arab minority in several fields, including land allocation and taxation. This paper focuses on some recently introduced bills on civil and political rights. These bills seek, inter alia, to minimize or undermine the ability of Palestinian citizens of Israel to participate in the political life of the country, turn citizenship from a right into a conditional privilege, criminalize political expression or acts that question the Jewish or Zionist nature of the state, and use the criterion of military service as a justification for discrimination. The following are examples of these legislative proposals.

Undermining the participation of Palestinian citizens of Israel in political life

- A proposed amendment to the Basic Law: The Government – Loyalty Oath (legislative bill no. 5/18), stipulates that upon taking up the office of minister, all ministers must make an oath to the state as a "Jewish, Zionist and democratic state" and to the values and symbols of the state. Ministers are currently required to make an oath only to the state. The bill clearly discriminates against Arab citizens of Israel, and seeks to prevent them from serving in high public office. The bill was introduced on 1 April 2009 by Yisrael Beiteinu Member of Knesset (MK) David Rotem (who is Chairman of the Knesset's Constitution, Law and Justice Committee) and four other MKs from Yisrael Beiteinu.
- Two similar bills have been proposed regarding loyalty oaths for MKs. Both bills seek to amend the Basic Law: The Knesset. The first (bill no. 7/18) requires all MKs to make an

¹ A petition filed by Adalah to the Supreme Court of Israel against a discriminatory state policy that permits the allocation of Jewish National Fund (JNF)-controlled land through bids open only to Jewish individuals in 2004 remains pending. See H.C. 9205/04, *Adalah v. Israel Land Administration, et al.*

oath to the state as a “Jewish, Zionist and democratic state” and to the values and symbols of the state. It was initiated by MK David Rotem and three other Yisrael Beiteinu on 1 April 2009. The second (bill no. 226/18) was put forward by MK Zevulun Orlev of the far right-wing Jewish Home party, also on 1 April 2009; it requires MKs to swear allegiance to the State of Israel as a “Jewish and democratic state.”

Turning citizenship from a right into a conditional privilege

- A proposed amendment to the Citizenship Law – 1952 (bill no. 102/18) seeks to impose the following pledge of loyalty on anyone receiving Israeli citizenship (by birth or naturalization) as well as any citizen or resident applying for a national identity card: “I pledge to be loyal to the State of Israel as a Jewish and Zionist state, to its values and to its flag, and to serve the state in any way asked of me in military service as required by law.” Israeli citizens receive identity cards at the age of 16, and under Israeli law, it is illegal to move around without an identity card on one’s person. It would also authorize the Interior Minister to revoke the citizenship of Israeli citizens who do not fulfill military or alternative national service. Most Palestinian Arab citizens of Israel are currently exempt from serving in the Israeli military. By compelling them to swear loyalty to the values of Zionism, the bill violates the rights of Palestinian citizens to equality, dignity and expression and constitutes a constant threat to their citizenship status. The bill has passed its initial reading in the Knesset. It was initiated by MK David Rotem of Yisrael Beiteinu and three other Yisrael Beiteinu MKs on 1 April 2009.
- Similarly, a further proposed amendment, to the Population Registration Law – 1965 (bill no. 811/18), seeks to impose an oath of loyalty to the state, the flag and the national anthem on anyone who seeks to obtain his or her first national identity card. The bill was put forward by Knesset Law Committee chairman MK David Rotem of Yisrael Beiteinu and four other Yisrael Beiteinu MKs on 4 May 2009.

Criminalization of political expression that questions the Jewish or Zionist nature of the state

- The “Nakba Bill” (bill no. 548/18) seeks to outlaw and criminalize the holding of public events or ceremonies to commemorate the Palestinian “Nakba” (catastrophe) on Israel’s Independence Day.² According to Article 1A(a) of the Bill, “No person shall stage any action or event tantamount to marking Independence Day, or relating to the establishment of the State of Israel as a day of mourning or as a day of sorrow.” Palestinians traditionally mark Independence Day as a day of mourning for the loss of their homeland and expulsion of their people; in Israel, the Palestinian minority marks this day with a march to one of the Palestinian villages destroyed in 1948. The bill constitutes a major restriction on freedoms of speech, expression and assembly, and effectively requires Palestinian citizens of Israel to deny their history and national identity or face a maximum prison sentence of three years. The draft legislation has been approved by the Ministerial Committee on Legislation, headed by the Minister of Justice. Following an appeal the bill is now being reconsidered by the committee. The bill is sponsored by MKs David Rotem and Alex Miller (the Deputy Speaker of the Knesset) and six other Yisrael Beiteinu MKs.³

² For an English translation of the law, see <http://www.arabhra.org/HraAdmin/UserImages/Files/nakba-law-English.pdf>.

³ See also the letter sent on 29 May 2009 by Muhammad Zidan, the Chairman of the High Follow-Up Committee for the Arab Citizens of Israel to the Prime Minister, the President of the State of Israel and the Speaker of the Knesset regarding the new legislative proposals aimed against the Arab citizens in Israel. The letter is available at: http://www.adalah.org/eng/pressreleases/pr.php?file=09_05_29.

On 2 June 2009, as reported in the press, Justice Minister Ya'akov Ne'eman stated with regard to the Nakba Bill that there is no state in the world in which a minority group voices its hopes on state independence day that the state would collapse and all of its residents "be thrown into the sea." Minister Ne'eman further stated that if anyone staged demonstrations on Independence Day to call for the end of the state as the State of Israel, then measures should be taken against them. The Justice Minister voted in favor of the government's endorsement of the bill.⁴

- The "Jewish and Democratic State Bill" (bill no. 268/18) seeks to prohibit making public calls to negate the existence of Israel as a "Jewish and democratic state," where "the content of such publication would have a reasonable possibility of causing an act of hatred, disdain or disloyalty." Most Palestinian citizens of Israel support making Israel a democratic state for all its citizens and believe that the emphasis on the Jewish character of the state is oftentimes the basis upon which the most discriminatory policies and laws stand. Thus the bill represents an assault on their freedom of thought and speech. The bill also stands to obstruct efforts by Palestinian citizens of Israel to secure equal rights and challenge discrimination. The bill imposes a maximum prison sentence of one year. The bill, which has passed an initial reading in the Knesset, was initiated on 1 April 2009 by MK Zevulun Orlev of the far right-wing Jewish Home party.

Using military service as a justification for discrimination

- A proposed amendment to the Security Services Law – 1986 (bill no. 8/18) creates an obligation on individuals who do not perform military or alternative national service to pay an additional tax of 1% of their annual income until the age of 41, as long as they are found fit to serve. The bill strips Arab citizens of their current group exemption from performing military or national service, and seeks to penalize them for their refusal to serve in the Israeli army or provide other, national or civic, services to the state. The bill further stipulates that the revenue generated by the law should be used for the benefit of those who perform military or national service. The bill was introduced by MKs Avigdor Lieberman, David Rotem and four other Yisrael Beiteinu MKs on 1 April 2009.
- A proposed amendment to the Council for Higher Education Law – 1958 (bill no. 348/18) seeks to prohibit universities that receive state funding from admitting Israeli citizens as students between the ages of 18 and 21 who did not serve in the Israeli military or perform national service, unless they are certified unfit to serve. The bill was submitted by MK Chaim Katz of the Likud.
- A newly-proposed law entitled "Rights of those who serve in the military or national service – 2009" (bill no. 1/18) stipulates a long list of special financial, housing and educational benefits to be provided to those who perform military or national service, including priorities in access to higher education and employment in the civil service. In addition this bill would create a quota for employing such individuals in the civil service. The bill was initiated by MK David Rotem and three other Yisrael Beiteinu MKs on 1 April 2009.

These newly-proposed bills constitute a continuation, or escalation, of a **raft of "anti-Arab" laws enacted by the Knesset in 2008.**⁵ All of the following new laws also have a disparate impact on Palestinian citizens of Israel and anchor discrimination into law:

⁴ *Ynet*, 2 June 2009 (Hebrew).

⁵ See Haneen Na'amni, "New Anti-Arab Legislation," *Adalah's Newsletter*, Vol. 50, July 2008, available at: <http://www.adalah.org/newsletter/ara/jul08/haneene.doc>.

- *Citizenship Law: Extension of ban on family unification.* On 1 July 2008, the Knesset voted to extend the validity of the Citizenship and Entry into Israel Law (Temporary Order) – 2003 for another year to 31 July 2009, the ninth extension of the law to date. The law, first enacted in July 2003, denies Palestinian citizens of Israel the right to acquire residency or citizenship status in Israel for their Palestinian spouses from the OPT, solely on the basis of nationality. Amendments from 2007 expand the ban to spouses from Syria, Lebanon, Iraq and Iran, defined under Israeli law as “enemy states,” and “anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out.” The law is sweeping in its application and violates the rights to family life, equality, dignity and liberty. The law is totally disproportionate to the alleged security reasons cited by Israel to justify its enactment. Thousands of families are adversely affected by the law.⁶
- *Citizenship Law: Revoking citizenship due to “breach of trust or disloyalty to the state”.* On 28 July 2008, the Knesset approved the Citizenship Law (Amendment No. 9) (Authority for Revoking Citizenship) – 2008. The new law allows citizenship to be revoked on the grounds of breach of trust against the state. “Breach of trust” is broadly defined and even includes the act of residing in one of nine Arab and Muslim states which are listed by the law, alongside the Gaza Strip. The law allows for the revocation of citizenship for breach of trust without requiring a criminal conviction for this action. The law targets Palestinian citizens of Israel.⁷
- *Basic Law: The Knesset: Denying the right to be elected to any individual who visited Arab and Muslim states defined as “enemy states”.* On 30 June 2008, the Knesset approved an amendment of the Basic Law: The Knesset (Candidate who Visited a Hostile State Illegally). The amendment denies the right to be a candidate for election to the Knesset to any citizen who has visited “enemy” states – such as Syria, Lebanon, Iraq and Iran – without permission from the Interior Minister, during the seven years that preceded the date of submitting the list of candidates. The explanatory notes to the amendment emphasize that it was formulated in the context of recent visits by Arab Knesset members to Arab states. The amendment constitutes a flagrant violation of the constitutional right to be elected. It also constitutes a violation of the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious Minorities that safeguards the right of minorities to keep their contacts “across the frontiers with citizens of other states to whom they are related by national or ethnic, religious or linguistic ties.”
- *Absorption of Discharged Soldiers Law: Allowing discrimination against Arab students in institutions of higher education by using military/national service as a criterion for benefits.* An amendment to the law was approved on 17 June 2008 which anchors the use of the criterion of military/national service in determining eligibility for housing in student dormitories in all institutions of higher education into the law.⁸ It also grants broad discretion

⁶ Petitions filed to the Supreme Court of Israel challenging the constitutionality of the law, including a petition submitted by Adalah, remain pending. H.C. 830/07, *Adalah v. The Minister of the Interior, et al.*

⁷ According to Israeli Hebrew media reports on 4.6.09, the Shas party intends to shortly put forward a new bill to the Knesset that would allow the Interior Minister to revoke citizenship without prior legal approval from the Attorney General or the court.

⁸ The amendment was proposed in the Knesset following a precedent-setting decision by the Haifa District Court which accepted a petition filed by Adalah on behalf of three Arab students from the University of Haifa. The court ruled that the use of the criterion of military/national service in determining eligibility for student dormitories is invalid and discriminates against Arab students. The petition argued that the university is not authorized to add benefits to discharged soldiers that exceed those granted to them by the Absorption of Discharged Soldiers Law – 1994. Civil Lawsuit (District Court – Haifa) 217/05, *Naamnih et al. v. University of Haifa*, PD 64(2), 652 delivered 17 August 2006.

to higher education institutions to give additional economic benefits to discharged soldiers, regardless of the benefits provided to them under any other law.

In light of the above, Adalah and HRA call upon the EU to:

- Confirm in the Association Council statement that the upgrading of EU-Israel is put on hold pending tangible progress in Israel's respect for human rights including the rights of Palestinian Arab citizens of Israel, international humanitarian law and its peace process commitments;
- Urge Israel to resume as soon as possible its stalled human rights dialogue with the EU;
- Ensure that any future EU-Israel Action Plan contains concrete action points regarding Israel's obligations under international humanitarian and human rights law and the peace process, including its obligations towards the Palestinian Arab minority in Israel, which are missing in the current Action Plan;
- Ensure that the human rights sub-committee that the EU and Israel have agreed to establish holds its first meeting as soon as possible, and that the agenda and protocol of the human rights sub-committee meetings are accessible for the public, and that a public review mechanism with a clear timetable and working process is established.

Sincerely,



Hassan Jabareen, Advocate
General Director, Adalah



Mohammad Zeidan
General Director, HRA

Cc: EU Member States
Euro-Mediterranean Human Rights Network (EMHRN)
International Human Rights Organizations and Networks

Contact info:

Adalah – The Legal Center for Arab Minority Rights in Israel
Yaffa Street 94, PO Box 8921
Haifa 31090 Israel
Tel: +972-4-950-1610 / Fax: +972-4-950-3140 / rina@adalah.org, fathiyyah@adalah.org

The Arab Association for Human Rights
PO Box 215
Nazareth 16101 Israel
Tel: +972-4-656-1923 / Fax: +972-4-656-4934 / hra1@arabhra.org, mzeidan@arabhra.org