



Key concerns regarding the human rights of Palestinian citizens of Israel

Submitted in advance of the EU-Israel Political Subcommittee and Human Rights Dialogues

By Adalah - The Legal Center for Arab Minority Rights in Israel

21 March 2016

This briefing offers key concerns of Adalah regarding the human rights of Palestinian citizens of Israel. Notably, many of these concerns also apply to violations of the human rights of Palestinians living under occupation in the Occupied Palestinian Territory (OPT). This short report is submitted in advance of the EU-Israel Political Subcommittee and Human Rights Dialogues in April 2016.

I. Discriminatory & Anti-Democratic Laws in Israel

Since the election of the new Israeli government in March 2015, the Knesset has proposed and enacted legislation that contains discriminatory and/or anti-democratic provisions that are liable to severely harm the human rights of Palestinian citizens of Israel as well as Palestinians living in the OPT, and those who defend their rights. Many of these laws and bills relate to the latest, ongoing round of violence in Israel and the OPT that began in late September 2015; and others target human rights organizations and supporters of the Boycott, Divestment and Sanctions (BDS) movement. Examples include new laws that impose mandatory minimum prison sentences on stone-throwers, fines on their parents, and the cutting of their child allowances; and a new 'stop and frisk law' that significantly expands the powers of the police to stop and frisk individuals based on very general suspicions. Proposed bills include: the "Suspension Law", which would allow a super-majority of members of Knesset to oust democratically-elected minority members of the Knesset; and the "NGO Funding Transparency Bill", which would impose even more onerous restrictions on the activities of human rights organizations, among others. See [Adalah's Briefing Paper, "Israel: New Discriminatory and Anti-Democratic Legislation"](#), issued 1 March 2016.

II. Negative Israeli Supreme Court Decisions

The Israeli Supreme Court (SCT) in recent years has adopted a judicial approach characterized by an **increasingly and openly right-wing political view** towards human rights cases, particularly those that relate to Palestinians in Israel and in the OPT. The Court's rulings have had serious, negative implications by legitimizing many discriminatory laws and policies pursued by the Israeli government, which are deepening racial inequality and shrinking the civic and democratic space for all citizens in Israel. In 2013-2014, the Supreme Court upheld the constitutionality of the 'Nakba Law' and the Admissions' Committee Law, among others. Examples of major rulings in 2015 are included below. See also [Adalah's Briefing Paper, "An Anti-Human Rights Year for the Israeli Supreme Court"](#), issued on 10 December 2015, which highlights 10 cases.

- *Anti-Boycott Law:* In April 2015, the Supreme Court rejected a petition against the Anti-Boycott law, which allows Israelis to sue individuals and groups who call for economic, cultural or academic boycotts of Israel's West Bank settlements or of Israel itself. The Court **asserted that boycotts amounted to "political terror,"** ignoring the nonviolent and legitimate nature of this act of freedom of expression, and the efforts by many to use boycotts to pressure the state to end its military occupation and discriminatory policies.

P.O. Box 8921 Haifa 31090 Israel Tel: (972)-4-950-1610 Fax: (972)-4-950-3140

31090 חיפה, ص.ب 8921 هاتف 04-9501610 فاكس 04-9503140

31090, ת.ד. 8921 טלפון 04-9501610 פקס 04-9503140

Email: adalah@adalah.org

<http://www.adalah.org>

- *Absentee Property Law in East Jerusalem*: In April 2015, the Supreme Court approved the government's policy of applying the Absentee Property Law of 1950 in occupied East Jerusalem, thereby **allowing the state to confiscate the properties of Palestinians in the city** if the owners currently live in the West Bank. Israel "annexed" East Jerusalem following its occupation of the city in 1967, and has since pursued a policy of separating it from the occupied West Bank geographically, socially and politically. The purpose of the confiscations is to facilitate further building of Jewish settlements on occupied territory.
- *Home demolitions as collective punishment*: In November 2015, the Supreme Court rejected a petition to reconsider its decision to allow the government's policy of demolishing the homes of families of Palestinian individuals who were suspected, accused or convicted of carrying out attacks against Israel or its citizens. The decision allows the state to carry out demolitions as a **punitive and retaliatory measure, which amounts to collective punishment**. Punitive home demolitions amount to a severe violation of IHL and international criminal law.

III. Bedouin Village of Atir–Umm al-Hiran, Forced Displacement in the Naqab

On 17 January 2016, the Israeli Supreme Court issued its final decision in the case of Atir–Umm al-Hiran, an unrecognized Bedouin village in the Naqab (Negev) in south Israel. The Court [rejected an extraordinary motion](#), filed by Adalah on behalf of the villagers, for a second hearing on the case. This motion requested that the Court reconsider [its decision on 5 May 2015](#) to approve the state's plan to evict the village's 1,000 Arab Bedouin residents, who are citizens of Israel, **in order to build the Jewish town of "Hiran" and expand the "Yatir Forest" over its ruins**.

Supreme Court Chief Justice Miriam Naor wrote in her decision that the case "is not one that can be considered to be exceptionally-exceptional, the rarest of rare, to warrant another hearing." However, this judgment greatly contrasts with a decision made by the Court in a different case, in which it ruled that there was no reason for the state to remove a Jewish family, the Zeltzers, from their illegally-built home in the Jerusalem area. Unlike the village of Atir–Umm al-Hiran, the Court claimed that the Zeltzer family home had presented a "unique and special case" – a **discriminatory double standard** that violates the rights of the Bedouin citizens of Israel, including the right to equality.

The Court's refusal to reconsider its ruling from 5 May 2015 effectively means that the eviction and demolition of the village can proceed. **The villagers have exhausted all available legal channels** in Israel; only local and international political pressures can be brought to bear on the Israeli government not to forcibly evict them from their land. Meanwhile, Israeli construction workers are currently based at the hilltop on which Umm al-Hiran is built, where they have started initial work on the new Jewish town to replace the Bedouin village.

The SCT's ruling in the Atir-Umm al-Hiran case has stark legal and practical implications for the 35 unrecognized villages and their 70,000 indigenous Bedouin inhabitants. The ruling gives the state wide discretion to evacuate citizens from state land in the absence of a compelling public purpose and facilitates the implementation of further plans to displace the Bedouin in the unrecognized villages and dispossess this community of its remaining land. The SCT thus essentially took an **even more extreme position than the unjust and discriminatory Praver Plan**, as it legalizes the forcible displacement of citizens of Israel whom the Court itself has acknowledged are non-trespassers. Therefore, while the Praver legislation may go forward in some form, it is no longer necessary for the state to pursue it to ensure the eviction of the remaining unrecognized villages. Further, the chance of launching a successful legal challenge against Praver legislation is rendered negligible after the SCT ruling. See [Adalah's Position Paper, "The dangerous implications of the Israeli Supreme Court's decision to allow the forced displacement of Atir-Umm al-Hiran"](#), issued in February 2016.

IV. Severe Housing Crisis in Arab Communities in Israel

In February 2015, the Israeli State Comptroller released a special report on the housing crisis in Israel. The audit report, covering 295 pages, listed the obstacles that led to the rise in housing prices and indicated the causes and parties responsible. However, only a small portion of the report specifically addressed the housing shortage in Arab localities and its causes. Adalah highlighted the following concerns regarding the report in its report, [“Deliberate Obstacles, not Failures: Adalah’s response to the State Comptroller’s Report”](#), issued in April 2015:

- *Discriminatory policy in the marketing of state lands:* Institutionalized discrimination is one of the major impediments blocking the development of Arab towns. For example, in 2014, the Israel Land Authority (ILA) published tenders for construction of 38,261 housing units in Jewish communities (not including mixed-population cities), compared with only 1,844 tenders issued for housing in Arab communities. In other words, although Palestinian Arab citizens make up approximately 20% of Israel's population, **they have access to only 4.6% of new housing units.**
- *Master Plans:* The Comptroller's report discusses the failures in the implementation of National Master Plan 35 (“TAMA 35”), which was designed to meet the construction needs for Israel as a whole. However, it ignores the fact that, under this Plan, most Arab communities are marked as areas “for preservation”, thus greatly limiting their development options. Moreover, the Comptroller’s report refers to the need to update district and local master plans. This problem is far more acute in Arab towns: of 139 Arab localities, **only 41 have up to date master plans.**
- *Areas of jurisdiction:* The areas of jurisdiction of these **139 Arab towns comprise only 2.5% of the state's territory.** Despite natural population growth, the state has not established a single new Arab community since 1948 (outside of the Naqab), nor has it expanded the existing communities' jurisdictional areas. This situation has led to an 11-fold increase in the population density of Arab localities and significantly contributed to the housing shortage. But although this data is widely available, the State Comptroller does not address this issue at all in his report.
- *Problems relating to local authorities:* Local authorities play an important role in the planning and development of a town but **only five Arab local authorities act as local planning and building committees.** Currently, regional committees, made up of several different communities, do most planning for Arab towns. This system prevents Arab communities from having development plans designed to address the unique needs of their residents.
- *Government plans for affordable housing overlook Arab localities:* The Israeli government is promoting affordable housing programs while ignoring the needs of Palestinian Arab citizens. For example, under the “Target Price” plan, which began in 2014, 66,000 new housing units will be marketed between 2015 and 2019, at significantly discounted prices. Yet **not one Arab locality is included** in the 30 communities where this plan will be implemented.

These outcomes are not “failures” of the Israeli government, but are in fact **deliberate obstacles** imposed by the state against Palestinian citizens of Israel. Numerous discriminatory mechanisms [continue to operate to this day](#), including: **Admissions committees** that decide who may and may not live on moshavim, kibbutzim and in communal settlements; the prohibition of the transfer of properties controlled by the **Jewish National Fund (JNF)** to non-Jews; **Dedicated state land allocation** to the Orthodox Jewish population and, based on a proposed plan by the ILA and to the national-religious Jewish population as well; **Non-recognition** to dozens of unrecognized Arab villages in the Naqab, including whole communities that were moved there by the military government in the 1950s; **Avoiding the needed land allocation** to Arab towns for their growth and development.

V. Targeting Arab Cultural Rights in Israel

In the past year, the Israeli authorities waged an aggressive campaign against the cultural rights and cultural institutions of the Palestinian community in Israel. In 2015, Culture Minister Miri Regev and

the Haifa Municipality **froze the transfer of their public funds to the Al-Midan Theater in Haifa** as a response to the theater's decision to host a performance of the play "A Parallel Time", which tells the story of a Palestinian prisoner who built an oud in his prison cell. Although the play had been approved three times by professional bodies, including the Financial Support Committee, and was confirmed to be a part of the culture basket [state-supported performances for students], Minister Regev and the Haifa Municipality decided to suspend the funds. No hearing was held before the decision was made; no formal reasoning was provided; the decision was contrary to the recommendation of the Financial Support Committee; and it did not have any proper factual basis. The theater, represented by Adalah, [filed two separate petitions](#) to the Israeli Supreme Court and the Haifa District Court asking to revoke the decisions to suspend the funding. In November 2015, the District Court accepted the petitioners' arguments and [ordered the Haifa Municipality to reinstate the funds](#). The case against the Culture Minister is still pending before the Supreme Court.

Attempts to further undermine Arab cultural rights in Israel continued with the proposal of a new bill initiated by Minister Regev known as **the "Cultural Loyalty Law"**, that would require cultural institutions and artists seeking state funding [to declare their loyalty to the State of Israel and its laws](#). The proposed law would negatively affect all cultural institutions in Israel, and it especially targets Palestinian Arab cultural and artistic institutions in Israel. The condition of "loyalty" is a political consideration which has numerous harmful implications on freedom of expression, and would sweepingly affect the freedom of creativity and artistic production, which is an integral part of the right to freedom of expression. The bill essentially would transfer authority over the Culture Ministry's budget and that of cultural institutions from the Finance Ministry, as stipulated in the so-called Nakba Law enacted by the Knesset in 2011, to the Culture Ministry. The Nakba Law grants the finance minister the power to cut budgets allocated to state-funded bodies that reject the existence of Israel as a Jewish and democratic state, or that mark the state's Independence Day as a day of mourning (Nakba, or "catastrophe," is the term used by Palestinians to denote the establishment of Israel in 1948). In 2012, the Israeli Supreme Court [rejected a petition](#) brought by Adalah and other groups against the Nakba Law, ruling that the case was premature.

VI. Suspension of Balad Party members from Knesset, Expulsion Bill against Arab MKs

The Israeli government has taken **new punitive measures** against the three MKs of the National Democratic Assembly (Balad) faction of the Joint List – MKs Mr. Jamal Zahalka, Ms. Haneen Zoabi, and Mr. Basel Ghattas – in response to a recent visit on 2 February 2016 by the MKs to the family members of Palestinians killed by Israeli security forces while allegedly carrying out attacks. The visit was held based on a request by the Jerusalem families as part of efforts to secure the return of the bodies of the deceased Palestinians (their sons), which are being withheld by Israel, to their families. Despite the clear humanitarian purpose of the visit, Israeli politicians and the media claimed that the visit amounted to an endorsement of terrorism. The Balad members of Knesset staunchly oppose any infliction of harm on innocent individuals, wherever and whoever they are.

On 8 February 2016, the Knesset Ethics Committee decided to **suspend the three Balad MKs** from attending parliamentary meetings and committee hearings (they may still vote) for periods of two to four months. The Committee admitted in its decision that the visit was legitimate and within the domain of their legitimate parliamentary work. However, the Committee concluded that the three MKs should be disciplined for standing up during a "moment of silence" during the meeting with the families – a customary practice which is done out of respect for the deceased, regardless of their circumstances. The Committee appeared to be greatly influenced by the public atmosphere and the misleading and demonizing comments by Netanyahu and others, which led to the totally disproportionate punishment.

In stark contrast to the selective targeting of Arab MKs, the Knesset Ethics Committee in March 2016 dismissed a complaint against Justice Minister Ayelet Shaked for meeting with family members of a Israeli Jewish suspect who is charged with a deadly arson attack on a Palestinian home and family in Duma in the West Bank last year

Further, Prime Minister Netanyahu moved forward on a **new bill that allows a majority of 90 Knesset Members (MKs) to oust a serving MK [on the following three grounds](#)**, as enumerated in Section 7A of the Basic Law: The Knesset: (1) denial of the existence of Israel as a Jewish and democratic state; (2) incitement to racism; and (3) support for armed struggle of an enemy state or a terrorist organization against Israel. This bill would therefore allow an elected representative to be expelled from the Knesset by his/her peers on ideological grounds.

The new bill constitutes an additional legal tool for the Israeli Jewish majority in the Knesset to severely restrict the political participation rights of the **elected political representatives of the Palestinian minority in Israel**. It provides a mechanism for the majority to oust Arab MKs on the basis of purely political/ideological considerations, despite the clear conflict of interest entailed in MKs voting to unseat their political rivals. The Knesset's Constitutional, Law and Justice Committee approved the bill on 29 February 2016. It is scheduled for a first reading at the end of March 2016.

VII. Attacks on Freedom of Assembly and Association, Outlawing of Islamic Movement

During the height of the round of violence that occurred from September to November 2015, the Israeli police, backed by the courts, **tried to prevent the legitimate protest** of Palestinian citizens of Israel and Palestinian residents of occupied East Jerusalem against the government's policies by means of brutal and illegal acts. The primary purpose of these acts was to scare and oppress citizens and residents and threaten them into silencing their dissent. [These repressive acts included](#) the arbitrary arrests of minors; "preventive arrests" of activists/protest organizers to thwart demonstrations; arrests of activists' family members to pressure them; and severe physical violence against protestors, in particular in East Jerusalem. In those two months, **at least 200 Palestinian citizens of Israel were arrested**. Most police requests to extend the detention of arrested demonstrators were approved by the courts, without any critique of the police behavior. Throughout the various hearings, the judges expressed understanding with the police and excused their acts of gross violations of detainees' rights, especially minors. The courts essentially repressed basic freedom of expression rights of citizens, and granted long periods of detention without setting short court status dates that would allow for the further judicial review of developments in investigations.

The most serious attack on freedom of association rights occurred on 17 November 2015, when the Israeli government [declared the Islamic Movement in Israel an unlawful association](#). Defense Minister Moshe Ya'alon signed the administrative order pursuant to his authority under the Defense (Emergency) Regulations – 1945 dating from the British Mandate. Based on the order, any organization or individual affiliated to the movement, and any person who provides it with a service or works for it, will be considered to have committed a criminal offense and will be liable to imprisonment. Following the decision, the Israeli authorities confiscated property belonging to the offices of 17 organizations operating on behalf of the Islamic Movement's northern branch, including organizations located in Rahat, Jaffa, Nazareth and Umm al-Fahem. The government publicly accused the Islamic Movement of being linked to the ongoing violence at the time; however, the official order contained no clear charges and presented no evidence to support this claim. The decision to outlaw the Islamic Movement, without a hearing or trial, is a **violation and crackdown on the Islamic Movement's rights to freedom of association and political expression**. This action harms the Palestinian minority in Israel as a whole as the movement is part of the national representative bodies and elected local bodies of the Palestinian citizens of Israel.