



Briefing Note of Key Human Rights Concerns

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In this briefing note, Adalah – The Legal Center for Arab Minority Rights in Israel will provide information about its grave human rights concerns in the following areas:

1. Extreme military and police violence against protestors in Gaza and Haifa;
2. The Jewish Nation State Bill;
3. New wave of “annexation laws” and policies designed to seize Palestinian private land in the West Bank including East Jerusalem;
4. The discriminatory revocation of Palestinians’ citizenship and residency status;
5. Discrimination against and dispossession of the Arab Bedouin of the Naqab (Negev);
6. New legislation and policies aimed at reducing the political participation of Palestinian citizens in Israel;
7. The shrinking space for civil society in Israel.

Established in 1996, Adalah (“Justice” in Arabic) is an independent human rights organisation and legal centre. Adalah’s mission is to promote and defend the human rights of all individuals subject to the jurisdiction of the State of Israel, in particular members of the Palestinian minority in Israel and Palestinian residents of the Occupied Palestinian Territory (OPT). Adalah is the only Palestinian legal centre working to protect the rights of Palestinians in Israel and the OPT before the Israeli courts. Adalah has over 20 years of experience in litigating cases before the Israeli Supreme Court, and high-level legal expertise of Israeli law and practice has enabled it to achieve landmark legal successes

Below, Adalah presents some of its current major human rights concerns. These concerns reflect the ever-more evident reality that Palestinian citizens of Israel and Palestinians living under occupation in the Occupied Palestinian Territory (OPT) are subject to a single Israeli legal regime in all historical Palestine, which is implementing similar discriminatory policies against them all on the basis of their national belonging, and in breach of international human rights law and international humanitarian law (IHL).

1. Extreme military and police violence against protestors in Gaza and Haifa

Palestinians in Gaza have been demonstrating since 30 March 2018 in a series of weekly protests known as “The Great March of Return”, demanding the right of return for the Palestinian refugees, who number 1.3 million in Gaza alone, and an end to Israel’s illegal closure of the Strip. To date, 135 Palestinians have been killed by Israel in Gaza, of them 104 in protests, including 15 children, two journalists, two paramedics, and three persons with disability. Another 7,410 people have been injured, including 1,313 children, 271 women, 47 paramedics, and 64 journalists; of them 3,835 were hit by live fire.¹ Israeli military forces have resorted to lethal and other excessive force against protestors who did not pose an imminent threat to life or limb, including firing live ammunition from snipers, plastic-coated steel bullets, and tear gas grenades launched from drones.

¹ Based on documentation by Al Mezan.

Adalah and the Al Mezan Centre for Human Rights (Gaza) successfully secured passage to the West Bank for urgent medical treatment for wounded protestors, and the Israeli Supreme Court's (SCT) decision on one of the cases opened the door for others to receive critical medical treatment.² Adalah and Al Mezan additionally challenged the Israeli military's use of live ammunition against the protestors and sniper fire in a SCT petition.³ However, the court rejected the petition, effectively giving the green light to the Israeli military's continued use of live fire against protesters in Gaza. On 18 May 2018, Adalah participated in the UN Human Rights Council emergency session that voted to establish a commission of inquiry into the events.⁴

Adalah also represented protestors arrested by Israeli police in Haifa, Israel on 18 May 2018 while they were demonstrating against the killings in Gaza. Police employed extreme violence against the peaceful protestors, mostly Palestinian citizens of Israel, and arrested 21 of them, who were subjected to further police brutality during detention. Adalah's legal team, together with volunteer attorneys and the Human Rights Defenders' Fund, secured the release of all the detainees, and filed brutality complaints on behalf of protesters to the Justice Ministry's Police Investigations Unit.⁵

2. The Jewish Nation-State Bill

The Israeli government is promoting a new Basic Law, the proposed Basic Law: Israel as the Nation-State of the Jewish People.⁶ The purpose of this legislation is to constitutionally enshrine – for the first time – the identity of the State of Israel as the national home of the Jewish people. It further specifies (Article 1c) that “the right to exercise national self-determination in the State of Israel is unique to the Jewish people.” The bill states that the official language of the state is Hebrew, demoting Arabic, which is currently a second official language, to a language with “a special status” (Articles 4b and 4c). It also defines Jerusalem as the capital of Israel (Article 3).

Further, under the law (Article 7b), the state may allow a religious or a national community to “establish a separate [residential] settlement” in Israel. This provision contradicts a pre-existing constitutional principle anchored in Israeli SCT jurisprudence, namely, the *Qa'dan* case in 2000 in which the court held that discrimination between Jewish and Arab citizens in the use and allocation of state-controlled land was impermissible.⁷ While this principle has not been implemented in practice this new provision seeks to overturn it and establish segregation as a new legal norm. Because the bill has the status of a Basic Law, its enactment could be used to justify widespread discrimination against Palestinian citizens as non-Jews.

On 7 May 2017, the Ministerial Committee for Legislation voted in favour of the bill; the Knesset also voted in favour in a preliminary reading on 10 May 2017 and it is being prepared for a first reading before the plenum. In parallel, in June 2018, the Knesset Presidium decided to prohibit an Arab MK from introducing a bill that seeks to identify that State of Israel as a “state of all its citizens”, barring even the discussion of equality of citizenship in the country's legislature.⁸

² Supreme Court (HCJ) 2777/18, *Yousef Al-Kronz v. Commander of Israeli Forces in Gaza* (decision delivered 16 April 2018). See Adalah, “Israeli Supreme Court rules on Adalah-Al Mezan petition: Israel must let Palestinian youth wounded by Israeli gunfire at protests leave Gaza for urgent care,” 16 April 2018: <https://www.adalah.org/en/content/view/9478>

³ HCJ 3250/18, *Adalah and Al Mezan v. Israeli Military Chief of Staff* (petition dismissed 24 May 2018). See Adalah, “Israeli Supreme Court gives green light to continued use of live fire, snipers against Gaza protestors,” 25 May 2018: <https://www.adalah.org/en/content/view/9522>

⁴ Resolution adopted by the Human Rights Council on 18 May 2018, A/HRC/RES/S-28/1.

⁵ Adalah, “After all-night court hearing, legal defense team secures release of all Haifa protestors,” 21 May 2018: <https://www.adalah.org/en/content/view/9514>

⁶ An English version of the bill is available from the Israeli Justice Ministry: <http://www.justice.gov.il/StateIdentity/InformationInEnglish/Documents/BasicLawBill.pdf>

⁷ HCJ 6698/95, *Adel Qa'dan v. Israel Land Administration*, et al., P.D. 54 (1) 258.

⁸ Ha'aretz Editorial, “Let the Knesset decide,” 6 June 2018.

3. New wave of “annexation laws” and policies designed to seize Palestinian private land in the West Bank including East Jerusalem

While the Israeli government is legislating itself as a Jewish nation state, it is further working to establish a Jewish majority in Israel by annexing additional Palestinian-owned land in the occupied West Bank, including East Jerusalem. Legislative efforts to that end have accelerated rapidly, in a further grave breach of the right to self-determination of the Palestinian people in its homeland. The most notable new “annexation law” is:

The Settlements Regularisation Law (Law for the Regularisation of Settlement in Judea and Samaria) – 2017: Enacted on 6 February 2017, this new law allows Israel to expropriate vast tracts of private Palestinian lands in the West Bank for the purposes of settlement construction. The law establishes a mechanism through which Israeli outposts built on private Palestinian land in the West Bank can be “legalised” – from the perspective of domestic Israeli law – via retroactive expropriation, planning, and zoning regulations. The Israeli Government's official response from August 2017 to litigation against the law brought by Adalah and partners⁹ regards West Bank settlements as already annexed to Israel. The government contends that: (i) the law offers financial compensation to Palestinian land-owners and thus the confiscation is lawful; (ii) the law in fact benefits these land-owners who could not sell to Israelis due to ‘racist’ Palestinian laws; (iii) the Knesset may legislate matters in the West Bank since they relate to Israelis living there; (iv) Israeli settlers are part of the local civilian population; (v) Israeli settlements in the West Bank are of national importance and thus land confiscation is justified; and (vi) the fact that Palestinians do not vote for the Knesset is irrelevant, as they also do not vote for the Military Commander. In August 2017, the SCt issued a partial injunction freezing the operative parts of the law while the case is pending. A hearing was held before an expanded panel of nine justices on 3 June 2018.

Pending “annexation bills” include:

The Negev Development Authority Bill,¹⁰ which seeks to give settlements equal legal status to that of communities in the Naqab, effectively annexing parts of the southern West Bank to Israel. The bill has been designated for preliminary discussion.

The “Jerusalem and its Daughters” Bill,¹¹ which seeks to annex a ring of West Bank settlements – Beitar Illit, Ma’ale Adumim, Givat Ze’ev, Gush Etzion, and Efrat – that contain over 230,000 settlers to the Jerusalem municipality, and impose Israeli civil law in these occupied areas. The bill has been designated for preliminary discussion.

A slew of other bills at various stages of the legislative process similarly seek to de facto annex Jewish Israeli settlements to Israel, either *en masse* or at the level of single settlements or settlement blocs. They do this using several means, including the application of Israeli domestic law to the settlements in the West Bank,¹² and other bills that seek to apply specific laws, e.g. the Law and Administration Ordinance¹³ and Israel’s planning and building laws.¹⁴ Notably, Israel’s annexation of East Jerusalem in 1967 was achieved via the same mechanism, i.e. the application of Israel domestic law to the area. At least 20 such bills aim to apply Israeli domestic law to the settlements one

⁹ Adalah, together with the Jerusalem Legal Aid Center and Al Mezan Centre for Human Rights petitioned the Supreme Court of Israel against the law on 8 February 2017 on behalf of 17 Palestinian local councils. See HCJ 1308/17, *Silwad Municipality, et. al. v. The Knesset, et. al* (case pending). Israeli NGOs Yesh Din, ACRI, and Peace Now also petitioned against the law.

¹⁰ Bill no. P/4014/20, 14 March 2017.

¹¹ Bill no. 4109/20, 20 March 2017.

¹² Bill no. P/2574/20, 2 February 2016.

¹³ Bill no. P/3046/20, 20 June 2016.

¹⁴ Bill no. P/2226/20, 23 November 2015.

settlement or one bloc at a time. A few examples are bills that specifically target the Jordan Valley settlements,¹⁵ Hebron and surrounding settlements,¹⁶ Ariel,¹⁷ Modi'in,¹⁸ and Gush Etzion,¹⁹ as well as the "Ma'ale Adumim Sovereignty" Bill.²⁰

4. The discriminatory revocation of Palestinians' citizenship and residency status

Adalah is gravely concerned by recent steps taken by Israel to revoke the citizenship and/or residency status of Palestinians.

Revocation of the citizenship of Palestinian citizens of Israel

For the first time ever, the Haifa District Court ruled in August 2017 to revoke the citizenship of Alaa Zayoud, a Palestinian citizen of Israel who was sentenced to 25 years in prison after being convicted of attempted murder, leaving him stateless. The ruling sends a threatening and degrading message to Palestinian citizens that their citizenship is second class and conditional. Adalah, together with the Association for Civil Rights in Israel (ACRI), have appealed this decision to the Israeli SCt.²¹ The case is pending. The organisations argued that the law was being applied discriminatorily, that the criminal law provides adequate punishment for the crime committed, and that "breach of loyalty" is an overly-vague ground for revoking an individual's citizenship. The SCt will hold a hearing on the case on 11 June 2018.

The arbitrary revocation of citizenship from thousands of Bedouin citizens of Israel: Israel has been implementing a draconian practice of arbitrarily revoking citizenship from Arab Bedouin citizens of Israel, which dates back to at least 2010, and which is estimated to affect at least 2,600 Bedouin citizens living in the Naqab (Negev).²² Under this practice, a person's citizenship can be immediately cancelled if a clerk in the Interior Ministry, when approached by an individual who is requesting regular services such as renewing a passport or registering a change of address, finds administrative irregularities in the registration of the individual or of their parents. The individual's citizenship status is announced as invalid and downgraded to permanent residency, effectively leaving them stateless. Aimed exclusively at Bedouin citizens, the policy violates international human rights law, but also Israel's own Citizenship Law (1952), which prohibits revocation of citizenship as the result of errors.²³ Further, no Israeli law allows the Interior Ministry to revoke an individual's citizenship due to an error made by the state.

The revocation of the residency status of Palestinians in East Jerusalem: From the start of Israel's occupation of East Jerusalem in June 1967 to the end of 2016, Israel revoked the East Jerusalem residency status of at least 14,595 Palestinians.²⁴ Most revocations have been carried out based on claims that Palestinians have failed to prove that their "centre of life" is in East Jerusalem, based on the strict and discriminatory parameters of the Israeli Interior Ministry. More recently, Israel has revoked residency on spurious grounds of "breach of loyalty". Revocations on this basis are tantamount to the collective punishment and forcible transfer of Palestinians from Jerusalem, who

¹⁵ Bill no. P/3598/20, 27 December 2016.

¹⁶ Bill no. P/156/20, 4 May 2015.

¹⁷ Bill no. P/4040/20, 30 March 2017.

¹⁸ Bill no. P/260/20, 7 May 2015.

¹⁹ Bill no. 4039/20, 7 March 2017, and bill no.3947/20, 4 May 2015.

²⁰ Bill no. P/3244/20, 1 August 2016.

²¹ SCt Appeal 8277/17, *Zayoud v. The Minister of Interior* (case pending).

²² During the course of correspondence between Arab Member of Knesset Aida Touma-Suleiman and the Interior Ministry, the ministry appeared to confirm the existence of this policy and stated that it could affect up to 2,600 Bedouin citizens. Correspondence on file with Adalah.

²³ Adalah, "Israel illegally revoking citizenship from thousands of Bedouin citizens, leaving them stateless," 18 September 2017: <https://www.adalah.org/en/content/view/9238>

²⁴ Data obtained by HaMoked: Center for the Defence of the Individual. See HaMoked, "Israel continues its 'quiet deportation' policy," 6 April 2017.

are a protected population living under Israel's belligerent occupation, in a clear violation of international human rights law and IHL.

In September 2017, the Israeli SCt delivered a precedent-setting judgment that the Interior Minister had no legal authority to revoke the East Jerusalem permanent residency status of four Palestinian parliamentarians elected to the Palestinian Legislative Council (PLC) on the list of the Change and Reform Movement. The Israeli Interior Minister revoked their residency status in 2006 for alleged "breach of loyalty" for sitting in a "foreign parliament" and allegedly being members of Hamas, a terror organisation. These charges are illegitimate since Israel has no right as an occupying power to demand that members of the occupied population should demonstrate loyalty to it. Adalah represented the four parliamentarians via an *amicus curiae* legal opinion submitted together with ACRI in May 2007.²⁵ Some SCt justices referred to the special status of Jerusalem residents as "indigenous inhabitants".

Following the decision, the Knesset enacted a new law on 7 March 2018 to authorise the Interior Minister to revoke the permanent residency status of any Palestinian from East Jerusalem whom he suspects of "breach of loyalty" to Israel.²⁶ The residency status of the four men was revoked again on the basis of the new law; Adalah will again submit an *amicus curiae* opinion to support the challenge against the revocations before the SCt.

The ongoing ban on unification for Palestinian families

The Citizenship and Entry into Israel Law (Temporary Order) – 2003 bans family unification in Israel between Palestinian citizens of Israel and Palestinians from the OPT, affecting thousands of families on both sides of the Green Line. It further bans family unification in Israel for citizens and residents of certain Arab and Muslim countries classified by Israel as "enemy states", based entirely on the spouse's nationality. The law has now been in effect for 15 years, renewed perfunctorily by the Knesset each year when it expires. This discriminatory law was last extended in June 2018. While officially a temporary measure, Israel is using the law to create a permanent ban on Palestinian family unification in Israel, despite the severe violations of human rights entailed, including of the rights to equality, dignity and family life.

5. Discrimination against and dispossession of the Arab Bedouin of the Naqab (Negev)

The Arab Bedouin are an indigenous group that has been living in the Naqab for centuries, long before the establishment of Israel in 1948. Today, about 240,000 Bedouin citizens of Israel live in the Negev-Naqab in three types of settlements: government-planned towns, recognised villages and unrecognised villages. The State of Israel has consistently refused to recognise the historical land claims of the Arab Bedouin, in a break from the policy of the British Mandate Authorities.²⁷

There are 35 unrecognised Bedouin villages in the Naqab that the State of Israel refers to either as the "dispersion" or as "illegal villages", and to their inhabitants as "trespassers" on state land. Some of these areas are historical villages that existed before 1948, while others were created after the Israeli military government displaced their inhabitants during the 1950s. In most of the unrecognised villages there are no schools, health clinics, basic infrastructure, including electricity, running water, paved roads and sewage disposal systems, and they have no representation in local councils, nor can their residents register to participate in municipal elections. The residents of these villages live in severe hardship and poverty.

²⁵ As part of case HCJ 7803/06, *Khalid Abu Arafah et al. v. Minister of Interior*.

²⁶ Unofficial translation of the law to English: http://www.hamoked.org/files/2018/1162702_eng.pdf

²⁷ For more information, see NGO report by Adalah and the Negev Coexistence Forum to the UN Human Rights Committee, 9 April 2018: https://www.adalah.org/uploads/uploads/PDF_Report_to_UN_HRC_Bedouin_NCF_Adalah_09.04.2018_FINAL.pdf

The state established seven government-planned Bedouin towns in the 1970s as part of an ongoing process of urbanisation. All seven Bedouin towns are characterised by poverty, deprivation, high unemployment, crime and social tension, as well as inadequate provision of state services. Israel also recognised 12 Bedouin villages via various government resolutions from 1999 onwards. The state hailed their recognition as a fundamental shift in official policy, however, almost two decades later, there is no significant difference between these recognised Bedouin villages and the unrecognised villages. The residents of most of these villages continue to be denied access to basic state services, including water, electricity, sewage disposal, and paved roads.

Israel has aggressively intensified its use of home demolitions against the Arab Bedouin in the Naqab, which tripled in the five years between 2012 and 2017, according to the Ministry of Public Security.²⁸ The state has continued to use home demolitions as a tool of evicting families, and sometimes even whole villages, to urban towns, depriving them of their land and traditional way of life. Families residing in all Bedouin localities in the Naqab are subject to the state's discriminatory policy of house demolitions, and the fact that the government-planned towns and recognised villages have been approved by the state does not exempt their residents.

6. New legislation and policies aimed at reducing the political participation of Palestinian citizens in Israel

New legislation enacted to delegitimise the elected representatives of Palestinian citizens of Israel and limit their political participation includes:

The Basic Law: The Knesset – Expansion of Grounds for Disqualifying Candidates from Knesset Elections - 2017.²⁹ Enacted on 14 March 2017, this law amends Article 7A of the Basic Law to expand the grounds on which political parties and individual candidates can be disqualified from elections to include not only their goals and actions, but also their statements. Under the law, parties and candidates can be disqualified if their goals/actions – explicitly or implicitly – negate the existence of the State of Israel as a “Jewish and democratic state”; or incite to racism; or support armed struggle by a hostile state or terrorist organisation against the State of Israel. The amendment makes disqualification easier by including statements among the accepted grounds, which are more open to overly-broad interpretation. In all recent rounds of Knesset elections, right-wing actors have filed disqualification motions against Arab candidates and parties, which have either been rejected by the Central Elections Committee or blocked by the SCT. The law aims to lower the standard of proof required to effect a disqualification.

The Expulsion of MKs Law – 2016.³⁰ This law, enacted by the Knesset on 20 July 2016, allows a majority of 90 Knesset Members (MKs) to oust a serving MK for the full period of the Knesset's remaining term on the following two grounds, as enumerated in Section 7A of the Basic Law: The Knesset: (1) incitement to racism; and/or (2) support for armed struggle of an enemy state or a terrorist organisation against Israel. It presents a grave danger to the most basic civil rights in a democratic society: the right to vote and the right to be elected, and threatens to further restrict freedom of expression. It would allow the Israeli Jewish majority in the Knesset to oust elected Arab MKs and political lists on the basis of purely political/ideological considerations, despite the clear conflict of interest entailed. MK Yousef Jabareen, Adalah and ACRI challenged the constitutionality of this law before the SCT.³¹ On 27 May 2018, the SCT rejected the petitions allowing MKs to oust their colleagues from the Knesset.

²⁸ Data taken from reply to Freedom of Information Act Request from Ministry of Public Security, dated 20 February 2018, to the Negev Coexistence Forum.

²⁹ The text of the law in Hebrew: http://fs.knesset.gov.il//20/law/20_lsr_347851.pdf

³⁰ The text of the law in Hebrew: http://fs.knesset.gov.il//20/law/20_lsr_347851.pdf

³¹ HCJ 10214/16, *MK Yousef Jabareen, et al. v. The Knesset*.

The Electoral Threshold Law – 2014:³² The Knesset amended the Election Law in 2014 to raise the threshold required of political parties to enter the parliament from 2% to 3.25%, ahead of the March 2015 Israeli general elections. The goal behind this law was to exclude the three main Arab political parties. In response, the Arab parties decided to run together as a single slate – called the Joint List – despite their political and ideological differences (socialist-secular, religious, nationalist, etc.). Adalah and ACRI submitted an *amicus curiae* opinion arguing for the unconstitutionality of the new law before the SCT, which dismissed the case in an 8-1 vote in January 2015.³³

7. The shrinking space for civil society in Israel

In recent years the space for human rights organisations (HROs) and defenders in Israel has shrunk dramatically, due in large part to new legislation that seeks to curb their activities, including:

Law Banning BDS Supporters from Entering Israel:³⁴ Enacted by the Knesset on 6 March 2017, this law bans entry of foreign nationals and of Palestinians from the West Bank if they or the organisations they belong to publicly expressed support for boycott, divestment and sanctions (BDS) against the State of Israel or against Israeli settlements. It violates basic civil and political rights of Palestinian residents of the OPT, as well as Palestinian citizens of Israel, as it prohibits entry of foreigners with whom they have family ties, work relations and other connections solely based on those individuals' political expressions. In January 2018, the Government published a "blacklist" of over 20 organisations from Europe, the United States, South America, and Africa whose employees and/or members are banned from entering Israel due to their alleged support of the BDS campaign.³⁵ Numerous activists have been denied entry to Israel on the basis of this law.

NGO "Foreign Funding" Law:³⁶ Enacted on 11 July 2016, this new law requires NGOs that receive more than 50% of their annual budget from foreign governments to declare their sources of funding in all publications, including letters to government and public officials, and in reports to the Registrar of Non-Profit Associations. As 25 of the 27 Israeli organisations that currently receive more than half their budget from foreign governments are HROs, it is clear that these groups, which are highly critical of the Israeli government's policies, particularly in the OPT, were targeted by the law. The NGOs are already legally required to comply with invasive reporting requirements that mandate them to publish quarterly reports on any funding received from foreign governments or publicly-funded foreign donors. Moreover, financial assistance from international sources is legitimate and necessary in states, such as Israel/the OPT, where serious human rights violations occur.

The US, the EU, numerous legislators in EU member state parliaments including the German Parliament, among others, criticised the law and called on the Israeli government not to support its passage. Additional bills that seek to impose arbitrary restrictions on human rights defenders are a bill to deny tax-exempt status to NGOs that criticise the State of Israel abroad,³⁷ and a denial of freedom of information bill targeting NGOs that receive their source of funding from foreign states.³⁸

³² For the text of the law in Hebrew see: https://www.knesset.gov.il/review/data/heb/law/kns19_2.pdf

³³ HCJ 3166/14, *Yehuda Gutman v. Attorney General, et al.* (petition dismissed 14 January 2014).

³⁴ For the text of the law in Hebrew see: https://www.nevo.co.il/law_word/law14/law-2610.pdf

³⁵ For a list of these organizations, see, Adalah, "Israel releases 'BDS blacklist' banning 20 NGOs from entering country," 7 January 2018: <https://www.adalah.org/en/content/view/9347>

³⁶ The text of the law in Hebrew: http://fs.knesset.gov.il//20/law/20_lsr_346561.pdf

³⁷ Bill no. P/3667/20, 9 January 2017.

³⁸ The bill has not yet been officially promoted. Report of the Cyber Unit:

<http://www.justice.gov.il/Units/StateAttorney/Documents/annualcyber.pdf> (Hebrew).