

Inequality Report: The Palestinian Arab Minority in Israel

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Introduction

Inequality in Israel takes many forms. Some of the major fault-lines that divide Israeli society, creating relatively privileged and deprived groups are: Western Jews (*Ashkenzim*) versus Eastern Jews (*Mizrakhim*); men versus women; Israel-born Jews (*Sabar*) versus new immigrants (*Olim*); Orthodox versus secular Jews; rural versus urban dwellers; rich versus poor; left-wing versus right-wing supporters; and gay versus straight people. This report focuses on inequalities between Jewish citizens of Israel—the majority—and Palestinian Arab citizens of Israel, a national, non-immigrant minority living in its historical homeland.¹

Today, Palestinian citizens of the state comprise 20% of the total population, numbering almost 1.2 million people.² They remained in their homeland following the establishment of the State of Israel in 1948, becoming an involuntary minority. A part of the Palestinian people who currently live in the West Bank, Gaza Strip and the Diaspora, they belong to three religious communities: Muslim (82%), Christian (9.5%) and Druze (8.5%).³ Their status under international human rights instruments to which Israel is a State party is that of a national, ethnic, linguistic and religious minority.

However, despite this status, the Palestinian minority is not declared as a national minority in the Basic Laws of Israel. In 1948, Israel was established as a Jewish state. The definition of Israel as “the Jewish State” or “the State of the Jewish People” makes inequality a practical, political and ideological reality for Palestinian citizens of Israel, who are marginalized and discriminated against by the state on the basis of their national belonging and religious affiliation as non-Jews. They are frequently and increasingly viewed as a “fifth column” as a result of their Palestinian identity and national, religious, ethnic and cultural ties to their fellow Palestinians in the Occupied Palestinian Territory (OPT) and surrounding Arab and Muslim states, a number of which are considered “enemy states” by Israel.⁴ Furthermore, this perception is not restricted to the state authorities: according to the Israel Democracy Institute, in 2010 53% of the Jewish public maintained that the state was entitled to encourage Arabs to emigrate from Israel.⁵

Numerous groups of Palestinian citizens of Israel face “compound discrimination” or multiple forms of discrimination on the basis of both their national belonging and their membership in one

¹ The report will not discuss gaps between the various religious sub-groups that exist within the Palestinian minority (Muslim, Christian and Druze) except where the Israeli official data is broken down according to these groups. Where the relevant data is available, however, it does include a gender breakdown.

² Israeli Central Bureau of Statistics (CBS), Statistical Abstract of Israel 2009, No. 60, Table 2.2, 2.8, 2.10. This figure does not include the Arab population of occupied East Jerusalem or the occupied Golan Heights.

³ Ibid.

⁴ Although not specifically defined as “enemy states” in legislation, they are treated as such by a number of laws that restrict relations and contacts between Israel and a number of countries, all of which are Arab and/or Muslim states. For example, *the Citizenship and Entry into Israel Law – 2003* prohibits family unification in Israel between Israeli citizens and non-Jewish spouses from Syria, Lebanon, Iraq and Iran. The law imposes a similar ban on spouses from the Gaza Strip, in addition to harsh restrictions on family unification between Israeli citizens and Palestinian West Bank residents. A 2008 amendment to *The Citizenship Law – 1952* allows the revocation of the citizenship of Israeli citizens who acquire citizenship or permanent residency in Iran, Afghanistan, Lebanon, Libya, Sudan, Syria, Iraq, Pakistan, Yemen or Gaza. *The Prevention of Infiltration (Offences and Jurisdiction) Law – 1954* makes it a criminal offence to leave Israel and knowingly and illegally enter Lebanon, Syria, Egypt, Jordan, Saudi Arabia, Iraq, Yemen Iran and the OPT, and for nationals of Lebanon, Egypt, Syria, Saudi Arabia, Jordan, Iraq and Yemen, as well as a resident or visitor to these countries or the OPT, to enter Israel knowingly and illegally.

⁵ Israel Democracy Institute, *Auditing Israeli Democracy – 2010*, (English) p. v, available at: http://www.idi.org.il/PublicationsCatalog/Documents/Book_7114/madad_2010_eng_abstract.pdf

or more distinct sub-groups. For instance, Arab women in Israel face discrimination as members of the Arab minority and as women, and Arab Bedouin face an additional layer of institutional and social discrimination. Some individuals are subjected to multiple forms of discrimination, for instance disabled female Arab Bedouin children living in the unrecognized villages in the Naqab (referred to by the state as “illegally constructed villages” or “illegal settlements”). With regard to certain marginalized groups, Israel has some of the world’s most forward-thinking and progressive laws and policies. Israel’s Knesset, for example, has legislated strong anti-discrimination legislation and legal protections for women and disabled persons.⁶ However, the same has not been done for the Palestinian minority in Israel. As a result, Palestinians who are also members of other marginalized groups do not receive the full benefit of such protections. Moreover, according to a recent poll, just 51% of Jewish citizens of Israel support full equality in rights between Jewish and Arab citizens of Israel.⁷ The same attitude prevails among Jewish youth, with 49.5% of Jewish 15-18-year-olds responding negatively in a poll carried out in 2010 to the question of whether Arab citizens should be granted rights equal to those of Jews.⁸

This report details some of the main legal, political and policy structures that institutionalize discrimination against the Palestinian minority in Israel, and entrench inequalities between Palestinian and Jewish citizens. It provides indicators of inequalities, including official state data, and explains how specific laws and policies work to exclude the Palestinian minority from state resources and services, as well as the structures of power. It further demonstrates how the State of Israel as an ethnocracy or “ethnic nation-state” is systematically failing to adopt effective measures to redress the gaps that exist between the Palestinian minority and the Jewish majority, and moreover how, by privileging Jewish citizens in many fields, the state actively preserves and even widens these gaps. Finally, the report reflects on the impact of inequality on the Palestinian minority in Israel and its ramifications for the state as a whole.

This report is part of a project on inequality. In addition to the report, Adalah has produced three videos on the subject of inequality in Israel. The first of these videos, *Targeted Citizen*, surveys discrimination against Palestinian citizens of Israel.⁹ The second and third videos focus on case studies of discrimination in land and planning rights and in employment rights, and considers its effect of these inequalities on Israeli society as a whole.

The report is organized into chapters and includes a section on “Main Findings”. The following subjects relating to inequalities between Palestinian and Jewish citizens of Israel are surveyed:

- The legal framework of inequality
- Citizenship rights
- Income/poverty
- Redistribution of resources and social welfare
- Employment
- Economic assets: land
- Educational access/attainment
- The Arabic language
- Health
- Political participation

⁶ *The Women’s Equal Rights Law – 1951 and The Equal Rights for People with Disabilities Law – 1998.*

⁷ Israel Democracy Institute, *Auditing Israeli Democracy – 2010*, (English) p. viii.

⁸ Poll commissioned by the Maagar Mochot research institute, reported in Or Kashti, “Poll: Half of Israeli high schoolers oppose equal rights for Arabs,” *Haaretz* (English edition), 11 March 2010.

⁹ Documentary filmmaker Rachel Leah Jones directed the three videos for Adalah. To view the videos, please visit: <http://www.adalah.org/eng/video.php>

Main Findings

The legal framework of inequality

- Inequalities between Arab and Jewish citizens of Israel span all fields of public life and have persisted over time. Direct and indirect discrimination against Palestinian citizens of Israel is ingrained in the legal system and in governmental practice.
- The right to equality and freedom from discrimination is not explicitly enshrined in Israeli law as a constitutional right; nor is it protected by statute. While Supreme Court justices have interpreted The Basic Law: Human Dignity and Liberty as comprising the principle of equality, this fundamental right is currently protected by judicial interpretation alone.
- The definition of the State of Israel as a Jewish state makes inequality and discrimination against Palestinian citizens of Israel a reality and a political project. The pairing of “Jewish” and “democratic” both codifies discrimination against non-Jewish citizens and impedes the realization of full equality.
- Numerous groups of Palestinian citizens of Israel face “compound discrimination” or multiple forms of discrimination on the basis of both their national belonging as Arabs/Palestinians and their membership in one or more other distinct sub-groups, such as women, the disabled and the elderly.
- Over 30 main laws discriminate, directly or indirectly, against Palestinian citizens of Israel and the current government coalition has proposed a flood of new racist and discriminatory bills which are at various stages in the legislative process.

Citizenship rights

- Palestinian citizens of Israel are afforded differential and unequal treatment under Israeli law in the field of citizenship rights. The most important immigration and nationality laws—including the Law of Return (1950) and the Citizenship Law (1952)—privilege Jews and Jewish immigration.
- If the spouse of a Palestinian citizen of Israel is a Palestinian resident of the OPT it has been virtually impossible for him or her to gain residency or citizenship status in Israel since May 2002. This ban on family unification is totally disproportionate to the alleged security reasons cited by Israel to justify it; rather, it is motivated by the state’s desire to maintain a Jewish demographic majority.
- A new law makes it possible to strip Israeli citizenship for various reasons related to alleged “disloyalty” to the state or “breach of trust”, indirectly targeting the citizenship rights of Palestinian citizens. Several attempts to pass additional laws that grant the authority to revoke citizenship and impose further loyalty oaths are currently pending in the Knesset.

Income/poverty

- Arab families are greatly over-represented among Israel’s poor: over half of Arab families in Israel are classified as poor, compared to an average poverty rate of one-fifth among all families in Israel. Arab towns and villages are heavily over-represented in the lowest socio-economic rankings, and the unrecognized Arab Bedouin villages in the Naqab are the poorest communities in the state.

- Gaps in income and poverty rates are directly related to institutional discrimination against Arab citizens in Israel.

Redistribution of resources and social welfare

- Although the right to equality demands that states take positive steps to bridge the gaps between the various population groups, the State of Israel actively seeks to promote and direct resources to Jewish citizens as a privileged majority within the “Jewish State”. In many policy areas, including the designation of “National Priority Areas” and the use of the military service criterion to allocate resources, the state actively preserves and perpetuates inequalities between Arab and Jewish citizens of Israel.
- The state has consistently failed to take adequate and effective action to address the phenomenon of absolute and relative poverty among the Arab minority in Israel. Where it has initiated development programs targeting the Arab minority, such as the “Multi-Year Plan”, the state has tended to implement them partially, gradually, or not at all.
- Direct state policy measures to reduce poverty disproportionately target Jewish citizens, with the result that poverty rates have fallen far more sharply among Jewish citizens than their Arab counterparts, and inequalities have consequently persisted.

Employment

- Palestinian citizens of Israel often face discrimination in work opportunities, pay and conditions, both because of the inadequate implementation of equal opportunities legislation and due to entrenched structural barriers, which particularly affect women, and include poor or non-existent public transportation, a lack of industrial zones, and a shortage of state-run daycare centers. Palestinian citizens are also excluded from the labor force by the use of the military service criterion as a condition for acceptance for employment, often when there is no connection between the nature of the work and military experience.
- Unemployment rates remain significantly higher among Arab than Jewish citizens, and the rate of labor force participation among Palestinian women citizens of Israel, at just about 20%, is among the lowest in the world.
- Palestinian citizens of Israel in general, and women in particular, continue to be sorely underrepresented in the civil service, the largest employer in Israel (in total, Arabs constitute just around 6% of all civil service employees), despite affirmative action legislation stipulating fair representation for the Arab minority and for women.
- The lack of development and investment in Arab towns and villages inside Israel and the unexploited or under-exploited human resources of the members of the Palestinian minority inhibit the growth of the Israeli economy. The lost potential to Israel’s economy has been estimated at around US\$ 8 billion per year by the OECD.

Economic assets: land

- In continuation of a pattern that was established with the founding of the state in 1948, Palestinian citizens of Israel continue to be deprived of access and use of the land under long-standing and more recent land laws and policies. Furthermore, new measures—including a new land reform law in 2009 and an amendment to the Land Ordinance from

February 2010—aim at confirming state ownership of land confiscated from Palestinians in perpetuity and blocking Palestinian restitution claims.

- Admissions committees operate in around 700 agricultural and community towns and filter out Arab applicants on the basis of their “social unsuitability” from future residency in these towns. The operation of admissions committees contributes to the institutionalization of racially-segregated towns and villages throughout the state and perpetuates unequal access to the land.
- The Jewish National Fund (JNF)—a body with quasi-state authority that operates solely for the interests of the Jewish people and controls 13% of the land in the state—continues to wield decisive influence over land policy in Israel, having been allocated six of a total of thirteen members of the newly-established Land Authority Council.
- Arab towns and villages in Israel suffer from severe overcrowding with Arab municipalities exercising jurisdiction over only 2.5% of the total area of the state. Since 1948, the State of Israel has established approximately 600 Jewish municipalities, whereas no new Arab village, town or city has ever been built.
- While the Arab Bedouin population in the Naqab stands at around 170,000 persons or 14% of the total population in the Naqab, the combined areas of the government-planned and newly-recognized Arab Bedouin towns and villages in the Naqab account for just 0.9% of the land in the district.
- Israel is currently intensifying its efforts to forcibly evacuate the unrecognized villages in the Naqab (referred to as “illegal clusters”), including by demolishing entire villages, as recently witnessed in the repeated demolition of the village of Al-Araqib. In pursuing this policy, the state has rejected the option of affording recognition to these villages, many of which predate the establishment of Israel. Between 75,000 and 90,000 Arab Bedouin live in the unrecognized villages in the Naqab, whom the state characterizes as “trespassers on state land”.

Educational access/attainment

- The Ministry of Education retains centralized control over the form and substance of the curriculum for Arab schools, with few Arab educators wielding decision-making authority. The State Education Law sets educational objectives for state schools that emphasize Jewish history and culture.
- The current under-investment in Arab schools in Israel threatens to sustain the gaps between the Jewish majority and the Arab minority in the future. Since Arab children account for 25% of all children in Israel, the unequal investment in their education and development can be expected to act as a major break on the Israeli economy in the coming generation.
- State funding to Arab schools in Israel falls far behind that provided to Jewish schools. According to official state data published in 2004, the state provides three times more funding to Jewish students than it does to Arab pupils. This underfunding is reflected in many areas, including relatively large class sizes and poor infrastructure and facilities.
- There are few elementary schools in the unrecognized Arab Bedouin villages in the Naqab, severely overcrowded and poorly-equipped, and not a single high school. Despite a

settlement reached by the state with Adalah to establish the first high school in the unrecognized village of Abu Tulul by 1 September 2009, no school has yet been opened.

- Arab students are dramatically underrepresented in Israel's universities and other institutes of higher education. Arab academics constitute only about 1.2% of all tenured and tenure-track positions in Israeli universities, leaving Arab citizens marginalized in the production of knowledge in society.
- The Ministry of Education's policies actually act to entrench the gaps between Arab and Jewish school children, since special programs to assist academically weak or gifted children, such as the "Shahar" academic enrichment programs, are disproportionately awarded to Jewish schools.

The Arabic language

- While Arabic is an official language in Israel, there is clear inequality in the opportunities granted to Arabic-speakers compared to Hebrew-speakers to enjoy and use their language in official and public fora. In practice, the status of Arabic is vastly inferior to that of Hebrew in terms of the resources dedicated to its use, despite Israel's duty under international human rights law to protect the language rights of the Arab national minority in Israel.

Health

- Arab citizens of Israel can expect to live shorter lives than Jewish citizens (about four years less) and face significantly higher mortality rates, particularly after the age of 60. The rate of infant mortality among Palestinian citizens is around double that among Jewish citizens, and higher still among the Arab Bedouin population in the Naqab (Negev), where it reaches over 15 per 1,000 live births.
- While Israeli law provides that equitable, high-quality health services should be provided to all residents of Israel, various barriers—including the lack of clinics and hospitals in Arab towns and villages and limitations on mobility—mean that Palestinian citizens are frequently unable to exercise their right to the highest sustainable standard of health.
- The health situation is most critical in the unrecognized Arab Bedouin villages in the Naqab, where health services are either limited or non-existent. The inadequate provision of health services in the unrecognized villages is a deliberate policy of neglect on the part of the state, which is seeking to evacuate them and relocate their residents, in part by creating intolerable conditions.

Political participation

- Palestinians citizens have unequal access and lower levels of participation than Jewish citizens in all spheres of public life and decision-making, from the judiciary, the legislature, and government to the civil service. As a result they have limited access to decision-making processes and centers of power, and a diminished ability to redress inequality and discrimination.
- Recent election cycles have witnessed attempts by the Attorney General (2003) and right-wing political parties and MKs to disqualify Arab parties and MKs from the Knesset, aimed at severely limiting the Palestinian political voice in the legislature. In 2003 and 2009, the

Israeli Supreme Court overturned decisions of the Central Elections Committee to disqualify Arab political parties and Arab leaders from participating in the national elections.

- The Arab voice has become increasingly delegitimized in the Israeli political and legislative process: according to recent polls around a third of Jewish citizens agree that Arab citizens should be denied the right to vote and be elected to the Knesset, and more than half of Jewish teenagers would deprive Arabs of the right to be elected to the Knesset.
- The criminal justice system is regularly used as a means of delegitimizing political acts and expression by Palestinian citizens of Israel, including their elected political leadership. Several Arab MKs have been indicted or had parliamentary privileges revoked for legitimate political activities and speech that falls within the scope of their work as elected representatives.
- A series of Israeli laws institute a range of restrictions on freedom of movement, freedom of speech, and access to the political system, including ideological limitations on the platforms of political parties and severe restrictions on travel by MKs to Arab states classified as “enemy states”. Such laws are used predominantly to curb the political freedoms of Palestinian citizens and their elected representatives and are steadily shrinking the space for political action available to them.
- The police routinely use force and arrest against Arab demonstrators as a deterrent in order to silence voices of protest. Anti-war protestors against the Israeli military operation “Cast Lead” in Gaza, mainly Arab citizens including many minors, were subjected to serious police violence. They further encountered disproportionate and systematic mass arrests, primarily on the pretext of their mere presence at the scene.
- Until today, ten years after the killings, no police officer, commander or political leader has been held accountable for the killings of 13 unarmed Palestinian citizens of Israel in October 2000 during demonstrations staged against Israel’s brutal policies in the OPT.
- Years of deliberate discrimination, unequal citizenship and a limited voice in the political system have left Palestinian citizens of Israel with a sense of vulnerability, marginalization, insecurity, distrust of and alienation from the state. Consistently lower voter turn-out rates among Palestinian citizens are one result: in the 2009 elections, the voter turn-out rate was 64.7% overall and 53% among Arab voters.
- By approaching the Arab minority in Israel as a “fifth column” to be controlled and contained, at times employing state violence and draconian legal measures against them, Israel is ultimately undermining the emergence of genuine stability and a culture of respect for democracy, good governance and human rights norms. It also risks relegating issues of human rights to “threats” to security and sovereignty to be dealt with by the state.

1. The Legal Framework of Inequality

The principles of equality and non-discrimination are a cornerstone of international human rights law. In order to guarantee the principle of equality, human rights instruments enumerate numerous grounds on which discrimination is prohibited, including race, sex, religion, national origin, language and political opinion. States parties to international human rights instruments are required to enact these provisions into their domestic laws. However, in Israel the right to equality and freedom from discrimination is not explicitly enshrined in Israeli law as a constitutional right; nor is it protected by statute.

The definition of the State of Israel as a Jewish state makes inequality and discrimination against Palestinian citizens of Israel a reality and a political project. The Declaration of the Independence of the State of Israel includes two principles key to understanding the second-class legal status of Palestinian citizens. First, the Declaration refers specifically to Israel as a “Jewish State” committed to the “ingathering of the exiles.” At the same time, however, the Declaration makes the contradictory promise that the state will maintain full equality for all its citizens. This contradiction is at the heart of the institutional and systemic discrimination against the Palestinian minority in Israel. The State of Israel’s self-definition as a “Jewish and democratic state” has since been declared in two of the Basic Laws: *The Basic Law: Human Dignity and Liberty* (1992) and *The Basic Law: Freedom of Occupation* (1992 and its subsequent amendments). In addition, under Article 7A of *The Basic Law: The Knesset* (1958 and its subsequent amendments) a party list may be prevented from running for election to the Knesset if its objectives or actions negate the existence of the State of Israel as a “Jewish and democratic” state. This law obstructs the free exercise of political rights, including the rights to political speech and participation. It is often used to try to prevent Arab political parties and parliamentarians from seeking to alter the character of the state through democratic means, for example to a state based on full civil and national equality that does not grant preference to one national group over the other, and even to block debate on such proposals. The pairing of “Jewish” and “democratic” both codifies discrimination against non-Jewish citizens and impedes the realization of full equality.¹⁰

Israel lacks a written constitution or a Basic Law that constitutionally guarantees the right to equality and prohibits discrimination, either direct or indirect. While several ordinary statutes provide protection for the right of equality for women and people with disabilities,¹¹ no statute relates to the right to equality for the Arab minority in particular. *The Basic Law: Human Dignity and Liberty*, which is considered a mini-bill of rights by Israeli legal scholars, does not enumerate a right to equality; on the contrary, this Basic Law emphasizes the character of the state as a Jewish state.¹² In July 2010, the United Nations Human Rights Committee (which monitors the International Covenant on Civil and Political Rights, ICCPR) expressed its concern that Israel’s Basic Law: Human Dignity and Liberty, “does not contain a general provision for equality and non-discrimination,” and called on Israel to “amend its Basic Laws and other legislation to include the principle of non-discrimination and ensure that allegations of discrimination brought before its domestic courts are promptly addressed and implemented.”¹³

¹⁰ In addition, the flag and official state emblem are Zionist-Jewish symbols. Therefore, they exclude Palestinian citizens, as non-Jews, who lack recognized national symbols with which they can identify.

¹¹ There are four key equality statutes: *The Women’s Equal Rights Law – 1951*, *The Prevention of Sexual Harassment Law – 1998*, *The Equal Rights for People with Disabilities Law – 1998*, and *The Anti-Discrimination Act in Products, Services and in the Entrance to Places of Entertainment and Public Places – 2000*.

¹² Section 1(a) of *The Basic Law: Human Dignity and Liberty* states that, “The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a *Jewish and democratic state*” (emphasis added). Even the Basic Law: Freedom of Occupation, which provides “every Israeli national or resident” constitutional protection “to engage in any occupation, profession or trade,” includes the term “Jewish and democratic” in its statement of purpose.

¹³ Concluding Observations of the Human Rights Committee – Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 2, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.ISR.CO.3.doc>

While Supreme Court justices have interpreted *The Basic Law: Human Dignity and Liberty* as comprising the principle of equality,¹⁴ this fundamental right is currently protected by judicial interpretation alone. However, the fundamental importance of the principle of equality requires that it be explicitly guaranteed in the Basic Laws or a written constitution. The absence of an explicit guarantee of the right to equality in the Basic Laws or ordinary statutes diminishes the power of this right and leaves the Palestinian minority in Israel vulnerable to direct and indirect discrimination.

The current constitutional situation has allowed the State of Israel to enact laws that are either discriminatory on their face, in that they relate only to the rights of Jews in Israel or abridge the rights of Arab citizens of the state, or use neutral language and general terminology but have a discriminatory effect on Arab citizens. Adalah has identified over 30 main laws that discriminate against Palestinian citizens of Israel. This list of laws includes only primary legislation and is not exhaustive; indeed, since the election of the Netanyahu administration in February 2009, members of the government coalition have introduced a raft of discriminatory legislative proposals that are currently at different stages in their passage through the Knesset.¹⁵

These discriminatory laws are found among the Basic Laws and the sources of Israeli law. They limit the full gamut of rights of the Palestinian minority in Israel, from citizenship rights, to the right to political participation, land and housing rights, education rights, cultural and language rights, religious rights, and due process rights during detention on security charges. The Jewish character of the state is evident in numerous Israeli laws. The most important immigration laws—*The Law of Return (1950)* and *The Citizenship Law (1952)*—allow Jews to freely immigrate to Israel and gain citizenship, but exclude Arabs who were forced to flee their homes in 1947-1952 and 1967. Israeli law also confers special quasi-governmental standing on the World Zionist Organization, the Jewish Agency, the Jewish National Fund and other Zionist bodies, which by their own charters cater only to Jews. Various other laws such as *The Chief Rabbinate of Israel Law – 1980*, *The Flag and Emblem Law – 1949*, and *The State Education Law – 1953* and its 2000 amendment give recognition to Jewish educational, religious, and cultural practices and institutions, and define their aims and objectives strictly in Jewish terms, while no similar laws providing similar legal recognition to the religious and cultural rights of the Palestinian minority in Israel have been legislated.¹⁶

¹⁴ See, e.g., Chief Justice Aharon Barak's ruling in (High Court of Justice) HCJ 7052/03, *Adalah v. The Minister of the Interior*, decided in May 2006: "The right to equality is an integral part of the right to human dignity. Recognition of the constitutional aspect of equality derives from the constitutional interpretation of the right to human dignity. This right to human dignity is expressly recognized in the Basic Law. Notwithstanding, not all aspects of equality that would have been included, had it been recognized as an independent right that stands on its own, are included within the framework of human dignity. Only those aspects of equality that are closely and objectively connected to human dignity are included within the framework of the right to human dignity." The first time the Supreme Court issued a ruling in which it declared that the right to equality was part of the constitutional right to dignity was in HCJ 6427/02, *The Movement for Quality Government in Israel, et al. v. The Knesset* (decision delivered 11 May 2006).

¹⁵ For more information, see Adalah, *Briefing Paper: New Discriminatory Laws and Bills in Israel*, 29 November 2010, available at: <http://www.adalah.org/newsletter/eng/nov10/docs/ndl.doc>. See also Adalah and the Arab Association for Human Rights, *New Legal Developments: The New Israeli Government Launches a Flood of Legislation in Violation of the Rights of Palestinian Arab Citizens of Israel*, 4 June 2009, available at: http://www.adalah.org/newsletter/eng/jun09/Adalah_HRA_Briefing_note_FINAL_4.6.09.pdf. See also Adalah, *Legal Violations of Arab Minority Rights in Israel*, March 1998.

¹⁶ See Adalah, *Legal Violations of Arab Minority Rights in Israel*, March 1998; Adalah, *10 New Discriminatory Laws*, June 2010; and Adalah, *Briefing Paper: New Discriminatory Laws and Bills in Israel*, 29 November 2010, noted above.

2. Citizenship Rights

Palestinian citizens of Israel are afforded differential and unequal treatment under Israeli law in the field of citizenship rights. The most important immigration and nationality laws—*The Law of Return (1950)* and *The Citizenship Law (1952)*—allow every Jew in the world to immigrate freely to Israel and to automatically become an Israeli citizen.¹⁷ However, the same laws that privilege Jews exclude Palestinians who were forced to flee their homes in 1947-1952, stripping them of their former status and denying the internationally-recognized Palestinian right of return.¹⁸

The non-citizen spouses of Jewish and Arab citizens of Israel are granted status (permanent residency or citizenship) in the case that the spouse is a non-Jew (but not an Arab) under *The Citizenship Law* in a graduated procedure over a number of years based on a series of individual security and criminal background checks, and tests on the authenticity of the marriage. However, if the spouse is a Palestinian resident of the OPT, it has been almost impossible for him or her to gain residency or citizenship status in Israel since May 2002.

The ban on family unification

In July 2003, the Knesset enacted *The Citizenship and Entry into Israel Law (Temporary Order) – 2003*. The law denies the right to acquire Israeli residency or citizenship status to Palestinians from the OPT, even if they are married to citizens of Israel (Jewish or Arab). The ban is based solely on their nationality, not on individual, security-related reasons. Since the overwhelming majority of Israeli citizens who marry residents of the OPT are Palestinian citizens, and since the ban does not apply to Israeli settlers living in the West Bank, the law discriminates against Palestinian citizens and violates their rights to equality, family life, dignity and liberty. It is also totally disproportionate to the alleged security reasons cited by Israel to justify it and is rather motivated by the state's desire to maintain a Jewish demographic majority.¹⁹

Thousands of families are forced to live apart or in a state of constant insecurity under the threat of separation as a result of the law. Temporary visitor permits are granted to Palestinian spouses in very restricted circumstances since July 2005,²⁰ and in May 2006 the Israeli Supreme Court upheld

¹⁷ Article 1 of *The Law of Return* states that, "Every Jew has the right to immigrate to Israel." Article 4A(a): "The rights of a Jew under this law... shall apply to this child and grandchild of a Jew, to the spouse of a Jew, the spouse of the child and grandchild of a Jew, except for a person who has been a Jew and converted his religion voluntarily." Under Section 2 of *The Citizenship Law*, "Every person who immigrated according to the Law of Return will be a citizen of Israel."

¹⁸ In accordance with UN General Assembly Resolution 194 (III), Article 11, issued December 1948, which stipulates that, "[The General Assembly] Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."

¹⁹ The numbers of status-seekers involved in "terror activities" according to the state has fluctuated over the years. On 13 April 2010, the state submitted data to the Supreme Court alleging that between 2001 and April 2010, 54 persons who had received status in Israel through family unification procedures were either "directly involved in terrorist attacks" or prevented from carrying out such attacks at the last minute. However, the state did not provide any details about the nature of the involvement of these 54 persons in the reported attacks or attempted attacks. Nor did it provide any information on how many of them had been arrested, detained, released, indicted, convicted or sentenced for these activities or detail the gravity of their alleged actions. Although the information was demanded by Adalah, the state did not provide the court with any data about applications or involvement of persons from "enemy states," strongly suggesting that there is no factual basis for the sweeping ban on family unification with non-Jewish nationals from these states. Furthermore, previous information supplied by the state casts serious doubts on these general claims. Following a request for detailed information submitted by Adalah in December 2008, the state responded that just *seven* persons who had received status in Israel through family unification procedures had been indicted for security-related offenses, that only *two* of these had then been convicted, and that these two persons had already completed their sentences, which suggests that the offenses were relatively minor. Even if reliable, the numbers constitute a minute number of people, and thus the law is completely disproportionate.

²⁰ Amendments to the law from 2005 allow Palestinian men over 35 years and Palestinian women over 25 to apply for temporary residency permits at most. These permits do not qualify them for work permits, social benefits,

the law in a split 6-5 decision.²¹ In 2007 the ban was extended to include spouses from “enemy states” Syria, Lebanon, Iraq and Iran, and “anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out,” according to the security services.²² The Gaza Strip was added to this list in June 2008.

Thus the law creates three tracks of naturalization in the State of Israel. The first, the highest track, is for Jewish persons, who can gain citizenship immediately and automatically under the Law of Return (1950). The second track is for foreigners, to whom the graduated procedure applies, allowing them to obtain Israeli residency or citizenship status over a period of years. The third, the lowest track, is for the spouses of Arabs citizens not from the OPT, Iran, Iraq, Syria or Lebanon. The creation of these tracks, which is based on the nationality of the applicant, constitutes racial discrimination, and contradicts the principle of equality and prior decisions of the Supreme Court.

International organizations, including United Nations human rights treaty bodies, have repeatedly called on Israel to revoke the law. Most recently, in July 2010, the UN Human Rights Committee “reiterate[d] its concern that the Citizenship and Entry into Israel Law... remains in force and has been declared constitutional by the Supreme Court.” The Committee recommended that Israel revoke the law and “review its policy with a view to facilitating family reunifications of all citizens and permanent residents without discrimination.”²³

In July 2010, the Knesset extended the validity of the law for another six months to 31 January 2011. This is the *tenth* extension of the law, which is officially a temporary order. A petition filed by Adalah and other human rights organizations challenging the law remains pending before the Supreme Court for the last four years.²⁴

Revocation of citizenship

Several attempts have been made in recent years to make it possible to strip Israeli citizenship for various reasons related to alleged “disloyalty” to the state or “breach of trust”. All of these attempts have indirectly targeted the citizenship rights of Palestinian citizens. On 28 July 2008, the Knesset approved *The Citizenship Law (Amendment No. 9) (Authority for Revoking Citizenship) – 2008* which allows the citizenship of an Israeli citizen to be revoked on the grounds of “breach of trust or disloyalty to 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. A new bill currently before the Knesset seeks to permit the revocation of the citizenship of persons convicted of espionage and assisting the enemy in time of war, and acts of terrorism as defined under *The Prohibition on Terrorist Financing Law – 2005*.²⁵

driving licenses, etc. The amendments deny status to Palestinians from the OPT who are related to individuals whom *security officials suggest might constitute a security threat to Israel*. Such presumptuous conclusions cannot be challenged and would hold even where an applicant has no personal contact with such a relative.

²¹ HCJ 7052/03, *Adalah, et al., v. The Minister of Interior, et al.* (decision delivered 14 May 2006). The petition was filed by Adalah against the law on 3 August 2003. For more information, see Adalah, *Special Web-Report: Ban on Family Unification*, available at: <http://www.adalah.org/eng/famunif.php>

²² Petitions filed to the Supreme Court of Israel challenging the constitutionality of the law, including a petition submitted by Adalah, remain pending. HCJ 830/07, *Adalah v. The Minister of the Interior, et al.*

²³ Concluding Observations of the Human Rights Committee – Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 15. See also Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD): Israel, 14 June 2007, CERD/C/ISR/CO/13, para. 20, and CERD’s special decisions of 2003 (Decision 2/63) and 2004 (Decision 2/65); Concluding Comments of the Committee on the Elimination of Discrimination against Women (CEDAW): Israel, 22 July 2005, CEDAW/C/ISR/CO/3, para. 33.

²⁴ HCJ 830/07, *Adalah v. The Minister of the Interior, et al.* (case pending).

²⁵ Legislative bill no. 2366/18, introduced on 3 May 2010. The bill appeared following the arrest and indictment of Arab civil society leader Ameer Makhoul on charges of espionage.

The Israeli elections of February 2009 brought a right-wing government coalition to power that immediately began launching a flood of legislative offensives against the Palestinian Arab minority in Israel.²⁶ The proposed legislation includes amendments to *The Citizenship Law – 1952* that seek to impose a pledge of loyalty to Israel as a Jewish and Zionist state on anyone receiving Israeli citizenship (by birth or naturalization) as well as any citizen or resident applying for a national identity card, which it is obligatory to carry.²⁷ By compelling Palestinian citizens of the state to swear loyalty to the values of Zionism, the bills violate the right to equality, dignity and expression and turn the citizenship of Arab citizens from a right into a conditional privilege. On 10 October 2010, the Israeli government approved a further amendment to the Citizenship Law which, if enacted, would require all non-Jews seeking citizenship via naturalization to declare an oath of loyalty to Israel as a “Jewish and democratic state.” The loyalty oath bill was formulated to target Palestinian Arab citizens of Israel, whose “non-Jewish” spouses—Palestinians from the OPT and other Arab states—would be forced to swear an oath to Israel as a “Jewish and democratic State.”²⁸ The loyalty oath imposes a political ideology to accept Jewish and Zionist values, which in turn serves to negate the national and political identity of Palestinians and/or Arabs.²⁹

Income/Poverty

Economic disparities underlie and exacerbate many of the other inequalities detailed in this report. Taking income as an indicator of socio-economic status, the average gross monthly income among Arab citizens of Israel was NIS 5,419 in 2008 (US \$1,465), NIS 2,530 (US \$685) or around 32% lower than the comparative figure among Jewish citizens, at NIS 7,949 (US \$2,150).³⁰ The average gross monthly income among Arab male workers was around 42% lower than for Jewish male workers in 2008, and average gross monthly income for Arab female workers was around 28% lower than for Jewish female workers in the same year.³¹ The net monthly income of Arab households is just 63% of the net monthly income of Jewish households, despite the larger average size of Arab families.³² Therefore, “it is clear that in terms of economic wellbeing, the Arab-Israeli population is at a net disadvantage compared to the Jewish population.”³³

²⁶ The coalition is composed of the Likud, Labor, Yisrael Beiteinu, Shas, United Torah Judaism, and the Jewish Home parties. 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 in the Knesset.

²⁷ See, e.g., legislative bill no. 102/18, introduced on 1 April 2009. A further proposed amendment, to *The Population Registration Law – 1965* 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. Administrative bill no. 811/18, introduced on 4 May 2009.

²⁸ In the run-up to the Cabinet’s debate on the bill, on 7 October 2010 Adalah sent a letter urgent letter to the Prime Minister, the Attorney General, and the Justice Minister demanding they rescind the amendment on the grounds that mandating an oath of loyalty unfairly infringes upon on the right of freedom of expression.

²⁹ The bill received governmental approval on 10 October 2010. Two weeks later, Prime Minister Benjamin Netanyahu reportedly ordered Justice Minister Yaakov Neeman to redraft the bill so as to also apply it to persons who naturalize in Israel under the *Law of Return*—i.e. to new Jewish immigrants—an amendment that does not remove the discriminatory effect of the bill for non-Jews. For more information, see Adalah, *The New Loyalty Oath Bill Aims to Force Arab Citizens of Israel to Accept their Inferiority, Inequality and Exclusion*, 11 October 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=11_10_10; the Association for Civil Rights in Israel, *ACRI in Urgent Appeal: Cancel Undemocratic Loyalty Oath*, 7 October 2010, available at: <http://www.acri.org.il/eng/story.aspx?id=780>

³⁰ CBS, *Income of Individuals (Income Survey)* Table 25, 2008.

³¹ *Ibid*,

³² OECD, *Labour Market and Socio-Economic Outcomes of the Arab-Israeli Population*, March 2010, p. 33, available at:

<http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM%282010%292&doclanguage=en>

³³ *Ibid*. p. 34.

Table 1: Gross monthly income per employee by population group and sex in 2008 (in New Israeli Shekels)³⁴

	Total	Males	Females
Arabs	5,419	5,764	4,350
Jews	7,949	9,966	6,046

It is therefore unsurprising that 53.5% of all Arab families in Israel were classified as poor in 2009, compared to an average of 20.5% among all families in Israel.³⁵ This figure is far higher among Arab Bedouin families, at 67.2%.³⁶ While Arab citizens constitute around 20% of the total population of Israel they are over-represented in the poor population, accounting for 44.5% of such persons (members of families) in 2008.³⁷ Thus, according to Israel's National Insurance Institute, "there is a large, almost threefold gap between the Arab families' share of the entire population and their share of the poor population."³⁸

Gaps in income and poverty rates are directly related to institutional discrimination against Arab citizens in Israel. In 2004, former Supreme Court Justice Theodor Or explicitly acknowledged this reality, stating that, "The Arab citizens of Israel live in a reality in which they experience discrimination as Arabs. This inequality has been documented in a large number of professional surveys and studies, has been confirmed in court judgments and government resolutions, and has also found expression in reports by the state comptroller and in other official documents."³⁹

Israel ranks local councils and municipalities according to a ten-point socio-economic scale. Cluster 10 represents the wealthiest localities, and cluster 1 the poorest towns. The 75 Arab localities in the state are greatly over-represented in the lowest clusters: they make up around 87% of all localities within clusters 1-3, around 72% of all localities within clusters 1-4, and 0% of the most prosperous localities in the country classified in clusters 7-10.⁴⁰ As a consequence, the services provided by local authorities are generally both scarcer and of poorer quality in Arab localities.

Table 2: Comparison of neighboring pairs of selected Arab & Jewish towns by socio-economic indicators⁴¹

Town (Jewish towns shown in grey)	Average income per capita (NIS)	Socio-economic cluster ranking	% of sub-minimum wage-earners	% aged 17-18 entitled to a matriculation certificate
Afula	2,626	5	47.13	51.45
Umm el Fahem	1,321	2	58.64	33.29
Dimona	2,530	4	48.53	46.35
Rahat	1,059	1	57.07	23.92
Zikron Ya'akov	3,823	7	37.59	54.77
Jisr el-Zarqa	1,300	2	57.67	15.96

³⁴ CBS, *Income of Individuals (Income Survey)* Table 25, 2008.

³⁵ National Insurance Institute, *Poverty and Social Gaps, Annual Report 2009*, pp. 5, 11 (Hebrew)

³⁶ OECD, *Labour Market and Socio-Economic Outcomes of the Arab-Israeli Population*, March 2010, p. 31.

³⁷ The National Insurance Institute, *Annual Survey 2009*, p. 83 (Hebrew).

³⁸ The National Insurance Institute, *Annual Survey 2008*, p. 80 (English).

³⁹ Supreme Court Justice Theodore Or, "Report of the State Commission of Inquiry into the Events of October 2000," 2003, vol. I, para. 19, p. 33.

⁴⁰ CBS, *Local Councils and Municipalities by Socio-Economic Index, Ranking and Cluster Membership*, 2006, available at: http://www.cbs.gov.il/hodaot2009n/24_09_244t3.pdf. These figures do not include Arab citizens living in mixed cities. Many Jewish localities that are ranked within the low socio-economic clusters are settlements located in the occupied West Bank, including East Jerusalem, rather than in Israel proper. These include Modi'in Illit and Betar Illit (cluster 1), Betar Illit (cluster 2), El'Ad and Immanu'el (cluster 2), and Qiryat Arba (cluster 3).

⁴¹ CBS, *Local Councils and Municipalities – Rank, cluster membership, population, variable values, standardized values and ranking for the variables used in the computation of the index*, 2009, available at:

http://www.cbs.gov.il/hodaot2009n/24_09_244t1.pdf

Migdal Haemeq	2,313	5	47.70	49.34
Shafa'amr	1,747	3	48.88	34.94
Karmi'el	2,980	6	42.30	58.57
Arrabeh	1,417	2	54.55	24.47

Table 2 illustrates the socio-economic disparities that exist between a sample of Arab and Jewish towns located in close geographic proximity. It indicates how consistent gaps persist across a range of socio-economic indicators. The average income in the listed Arab towns is significantly and consistently lower than average income in the Jewish towns, and the average gap is approximately NIS 1,370 (US \$370). Consequently, all the sampled Arab towns are ranked in socio-economic clusters 1-3, while all the Jewish towns fall in clusters 4-7. Furthermore, in all of the sampled Arab towns, wage-earners earning less than the minimum wage account for more than their proportion in all the Jewish towns in the sample, and in all but one case account for over half of wage-earners. The table also shows the enormous gap that exists between 17-18 year olds with a school matriculation certificate, a minimum requirement for entry to university: 26.5% on average in the sampled Arab towns and 52% in the Jewish towns, arguably as a direct result of relative poverty in Arab municipalities.

Nowhere is inequality between Palestinians and Jews in Israel more obvious than in the unrecognized Arab Bedouin villages, referred to by Israel as “illegally constructed villages”. Despite the fact that most of these shockingly neglected villages existed prior to the establishment of Israel in 1948, they became illegal with the enactment of *The National Planning and Building Law – 1965*. The unrecognized villages are afforded no official status. They are home to between 75,000 and 90,000⁴² Palestinian Bedouin citizens of Israel in the Naqab (Negev) desert in the south, and receive little-to-no basic state services such as electricity, water, telephone lines, educational or health facilities, have no local councils and do not belong to other local governing bodies, and are excluded from government maps and state planning.

In part due to the lack of state services, including schools and public transport, poverty rates in the unrecognized villages are the highest in Israel. Of the eight local councils and municipalities ranked within cluster 1 (the poorest of a ten-point scale) seven are Arab Bedouin villages in the Naqab.⁴³ The unrecognized villages, where levels of poverty and social deprivation are significantly higher, are not even included in the state’s statistical calculations and publications. In July 2010, the UN Human Rights Committee called on Israel to “guarantee the Bedouin population’s access to health structures, education, water and electricity, irrespective of their whereabouts on the territory of the State part.”⁴⁴

Redistribution of Resources and Social Welfare

As stated above, the socio-economic status of the 75 Arab local authorities in Israel is far lower than that of Jewish local authorities, and their capacity to provide services is correspondingly lower. They have fewer resources at their disposal, and receive lower per capita transfer payments from the central government. According to the Ministry of Social Welfare, the total average public expenditure (by government) per capita on social welfare is more than 30% lower for the Arab sector.⁴⁵ The gap is even wider among children: the budget *per child* in Arab local authorities is

⁴² The Regional Council for the Unrecognized Villages in the Naqab, telephone conversation held on 8 March 2009. Because regular data on the unrecognized villages is not gathered by the state authorities it is not possible to state their precise population, but only an approximate range.

⁴³ CBS, *Local Councils and Municipalities by Socio-Economic Index, Ranking and Cluster Membership*. The eighth locality, Betar Illit, is an illegal Israeli settlement located close to Jerusalem.

⁴⁴ Concluding Observations of the Human Rights Committee – Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 24.

⁴⁵ Ministry of Social Welfare, Expenditure on Social Welfare 2006, Freedom of Information department.

52.1% lower than in Jewish local authorities.⁴⁶ The underinvestment in Arab local authorities is evident in the poor, inadequately maintained infrastructure—roads, sewage and water connections, etc.—that is characteristic of many Arab towns and villages. The Arab coastal town of Jisr al-Zarqa (population 10,500), for example, is not connected to the Tel Aviv-Haifa coastal highway, despite the fact that it is located adjacent to the road, which marks its western border. Jisr al-Zarqa is the only Arab town that lies along the roadway and the only town not connected to it. Its residents are required to take a kilometer-long, winding road to reach an older, less convenient and less direct coastal road in order to leave the village.⁴⁷

The State of Israel is well aware of these disparities. In an official government study conducted in 2007, for example, the National Insurance Institute concluded that, "... the poverty incidence index divides the population clearly into two national groups, with the poverty level of the Arab families far higher than that of the Jewish families."⁴⁸ However, the state has consistently failed to take adequate and effective action to address the phenomenon of absolute and relative poverty among the Arab minority in Israel, through affirmative action programs, targeted economic stimulus programs, etc. When it has initiated such plans, they are often implemented partially, gradually or not at all, and therefore fail to deliver the required support.⁴⁹ Moreover, there is little public pressure on the state to ensure the fair and equal allocation of resources, with 55% of respondents in a recent poll of the Israeli public stating that greater resources should be allocated to Jewish towns and villages than to Arab towns and villages.⁵⁰

A main channel for allocating additional resources to selected towns, villages and their residents is the government's policy of designating certain areas as "National Priority Areas" (NPAs), a classification that qualifies them for a host of lucrative benefits in a variety of fields. Of the 553 towns and villages that were previously awarded the status of NPAs by the government there were only four small Arab villages, despite the relative poverty of Arab towns and villages. The remaining NPAs were Jewish towns that received a range of benefits, incentives and grants paid for by the public purse. Thus, for example, Migdal HaEmek and Natserat Illit—two Jewish towns in the north of Israel—received extra resources as a result of their designation as NPAs, while eleven neighboring Arab towns and villages of a lower socio-economic status were excluded.

In February 2006, the Supreme Court ruled that the government's decision allocating NPA status in the field of education constituted illegal discrimination against Arab citizens and ordered the state to cancel it.⁵¹ However, the state failed to implement the court's decision and to devise clear,

⁴⁶ Ibid.

⁴⁷ As a result of a petition filed by Adalah in 2008, Ma'atz (Public Works Agency) announced before the Tel Aviv District Court in May 2009 that it would plan a road to connect Jisr al-Zarqa to the Tel Aviv-Haifa coastal highway within three years. *Administrative Petition (A.P.) 1998/08, Local Council of Jisr al-Zarqa v. Ma'atz*.

⁴⁸ National Insurance Institute, *Poverty and Social Gaps, Annual Report, 2007*.

⁴⁹ The NIS 4 billion "Multi-Year Plan for the Development of the Arab-Sector Communities," for example, was launched in 2000 to great fanfare, with the stated aim of closing the economic gaps between Palestinian and Jewish citizens in Israel. However, the plan has never been fully implemented. Despite its non-implementation, the state has used the fact that the plan was granted approval to justify the exclusion of Arab towns and villages from other development programs, including the former "Ofeq" program to assist areas of high unemployment, on the basis that it is not obliged to implement any additional development plans for the Arab minority besides the Multi-Year Plan. On 2 June 2004, the Supreme Court accepted a petition submitted by Adalah and Tel Aviv University Law Clinic against a government decision to exclude Arab towns from the "Ofeq" program, ruling that the state could not use the Multi-Year Plan as a reason for excluding Arab towns from other government socio-economic plans and programs. See HCJ 6488/02, *The National Committee of Arab Mayors, et al. v. The Directors' Committee for Fighting Unemployment in Settlements with High Unemployment Rates, et al.*

⁵⁰ Israel Democracy Institute, *Auditing Israeli Democracy – 2010*, (English) p. viii.

⁵¹ The ruling was delivered on a petition filed by Adalah against the government's decision to grant NPA status to towns and villages, in particular in the field of education. See HCJ 2773/98 and HCJ 11163/03, *The High Follow-up Committee for the Arab Citizens in Israel, et al. v. The Prime Minister of Israel* (decision delivered 27 February 2006).

objective criteria for the distribution of educational benefits to towns and villages.⁵² In December 2009 the government approved a new NPAs decision which classifies large areas as NPAs, including the Beer el-Saba (Be'er Sheva) district in the south and the entire northern region, both areas with high Arab populations. Crucially, however, towns and villages located in these areas are not automatically entitled to additional budgetary allocations; rather, the decision of whether or not they receive NPA benefits is subject to the discretion of government ministers. In the absence of clear standards, the decision is likely to perpetuate inequality and discrimination against Arab citizens. The decision also excludes the entire center of the country on the basis of the average socio-economic level of the area as a whole, thereby denying NPA status to poor Arab towns and villages located there, while awarding such status to Jewish settlements in the West Bank, which are illegal under international law.⁵³ On 20 June 2010, after four years of non-compliance by the state, Adalah filed a petition and motion for contempt of court to the Supreme Court against the Prime Minister due to the government's failure to implement the court's decision and the resulting perpetuation of discrimination against Arab citizens of Israel.⁵⁴

Despite the court's ruling, the use of NPAs to allocate resources in a discriminatory manner continues. For example, according to the *Economic Efficiency Law (Legislative Amendments for Implementing the Economic Plan for 2009-2010) – 2009*, the government enjoys sweeping discretion to classify towns, villages and areas as NPAs and to allocate enormous state resources without clear and fair criteria.

In March 2010, the government approved a new economic plan for the development of selected Arab towns in Israel, including Nazareth, Sakhnin, Umm el-Fahem, Tira and Daliat al-Carmel. The new plan, worth approximately NIS 800 million (US \$214 million), is designed, inter alia, to improve transportation, employment, housing and security in these localities over a period of five years.⁵⁵ The sum is modest given the needs in these and other areas, and the implementation of the plan on the ground remains to be seen.

Military and national service as means of discrimination

A range of public spending policies initiated by Israel privilege the Jewish majority, compounding the inequitable allocation of state resources. One of the main tools employed by the state with which to channel public funds towards Jewish citizens is by conditioning eligibility for public services and economic benefits on the performance of "military service." The vast majority of Palestinian citizens of Israel are exempted from military service and do not serve in the Israeli army for political and historical reasons. Thus the use of this criterion as a condition for awarding economic benefits discriminates against them on the basis of their national belonging and violates their right to equal enjoyment of various public services. By employing this criterion, the state is violating its duty to serve as a trustee for the entire public on an equal basis. Significantly, individuals who have served in the Israeli military already receive substantial compensation under *The Absorption of Discharged Soldiers Law – 1994*,

⁵² In June 2009, the Knesset passed *The Economic Efficiency Law – 2009*, to which an additional article entitled "National Priority Areas" was inserted. Contrary to the Supreme Court's decision, the law is vaguely worded and affords the government sweeping discretion to classify towns, villages or larger areas as NPAs, and accordingly to award a range of unspecified benefits to them.

⁵³ For more information, see "Adalah Position Paper on the Israeli government's new decision classifying communities as National Priority Areas," February 2010. Available in English at: <http://www.adalah.org/newsletter/eng/feb10/docs/english%20layout.pdf>

⁵⁴ A court hearing has been scheduled for February 2011. See, Adalah, "After Four Years of Non-Compliance, Adalah Submits Motion for Contempt to Israeli Supreme Court against the Prime Minister for Failure to Implement National Priority Areas Decision," 21 June 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=21_06_10

⁵⁵ See, e.g., the Jerusalem Post, *Gov't approves PM's plan to invest NIS 800 m. in Bedouin and Arab communities*, 21 March 2010, available at: <http://www.jpost.com/Israel/Article.aspx?id=171464>

which enumerates the broad range of social and economic benefits to which discharged soldiers are entitled, including housing and educational grants.⁵⁶

For instance, a discriminatory Israeli governmental policy provides substantial financial support or “extended support”—in the form of low-interest governmental loans—for home mortgages to Israeli citizens who have completed military or national service. The majority of Arab citizens are automatically excluded from these state resources. Under this policy, a married couple in a poor socio-economic situation, each of whom has completed full military service, receives NIS 124,500 (around US \$30,000) more towards their home mortgage than a similarly-situated married couple neither of whom served in the military. Since the purpose of supplemental governmental housing support is to assist the socio-economically disadvantaged to find housing solutions, the performance of military service is an arbitrary and irrelevant consideration in this instance. Therefore the effect of this and similar grants and financial support programs that are conditioned on the performance of military service is to widen inequality between the Jewish majority and the Arab minority in the state.⁵⁷

Case Study: Budget balancing grants allocated to Jewish towns and villages

“Budget balancing grants” are provided by the government to municipalities and local councils to reduce budget deficits created when expenditure on essential services exceeds income with the aim of securing a minimal, reasonable level of services. Although the socio-economic status of Arab towns and villages is generally far below the national average, and while the budget deficits of Arab municipalities account for around 45% of the total deficits of all municipalities, the equation used to calculate budget balancing grants provides substantially fewer points and hence funding to Arab local councils and municipalities. Under the current system extra grants are awarded to towns that absorb new Jewish immigrants, to towns classified as “front line” communities (only Jewish towns in the north and Jewish settlements in the OPT have been awarded this classification), and to towns considered “socially diverse” (which rules out Arab towns since most are homogeneous). Adalah petitioned the Supreme Court in July 2001 to request the determination of equal, clear, transparent and unified criteria for allocating budget balancing grants.⁵⁸ The petition remains pending before the court nine years later.⁵⁹ In the meantime, these lucrative grants continue to be given almost exclusively to Jewish communities. In July 2010, the Supreme Court issued an order to the state to provide an update on developments, and stressed the fact that although the case has been pending for years, the state has yet to issue clear criteria to govern the distribution of these grants. Adalah submitted a motion to the court requesting a final ruling on the case in November 2010.

⁵⁶ See Adalah, *Widening Use of Military Service as a Condition for University and Employment Benefits Discriminates against Arab Citizens of Israel*, 19 September 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=20_09_10_1

⁵⁷ In December 2005, Adalah filed a petition to the Israeli Supreme Court challenging the legality of this policy. See, HCJ 11956/05, *Suhad Bishara, et al. v. The Ministry of Construction and Housing*. In December 2006, the Supreme Court rejected the petition, deciding that there is no impediment in principle to granting benefits to those who have completed full military and national service above that which is afforded in *The Absorption of Former Soldiers Law*.

⁵⁸ HCJ 6223/01, *National Committee of Arab Mayors v. The Ministry of the Interior, et al.* (case pending).

⁵⁹ For more information, see Adalah, “Supreme Court orders state to appoint members to new committee formed to decide on criteria for allocating budget balancing grants to local authorities,” 13 April 2008, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=08_04_13_1

Taxation policies

A further example of the inequitable allocation of public resources is Amendment 146 to the Income Tax Act, a discriminatory clause determining the provision of income tax benefits. The amendment originally afforded tax exemptions to Israeli communities located on the border with the Gaza Strip, but the list quickly expanded to include communities added for political reasons only. Due to the lack of clear criteria to govern the provision of significant tax rebates to communities, not one of the communities selected to enjoy the benefits was Arab. The amendment passed despite the fact that Arab communities suffer from systematic discrimination in state budget allocation and are among the poorest and most neglected communities in Israel. In response to petitions submitted by the Association for Civil Rights in Israel and Adalah against the amendment in 2005,⁶⁰ the Israeli Supreme Court decided on 15 September 2010 that the granting of tax benefits to several communities without equal, clear and written criteria was unconstitutional and discriminatory.⁶¹

Overall, direct state policy measures to reduce poverty (transfer payments/benefits and taxes) target Jewish citizens far more than Arab citizens: the incidence of poverty declined by just 13.5% among Arabs in 2008 as a result of such measures, compared to 46.2% among Jewish citizens.⁶² Thus the redistribution of income by the state serves to preserve and widen rather than narrow inequalities between Arab and Jewish citizens. In Israel, government expenditure has a particularly critical role to play in combating poverty and redressing inequality, given the very high percentage it constitutes of the country's total GDP. In 2003, Israel invested as much as 52.4% of GDP on government expenditure, compared with 48.1% in France, 37.2% in Sweden, 36.8% in Finland, 32.8% in Germany, 21.0% in the United States and 18.4% in Canada.⁶³ However, by not focusing on the poorest and most disadvantaged groups among society, taxes and benefits have the effect of reducing poverty overall in Israel by just 25%, compared with an average of around 60% (compared with household incomes before taxes and benefits are taken into account) among OECD countries.⁶⁴

Employment

The Equal Opportunities in Employment Law – 1988 prohibits discrimination between job-seekers on the basis of their nationality. Despite this law, however, Palestinian citizens of Israel often face discrimination in work opportunities, pay and conditions, both because of the inadequate implementation of the law and entrenched structural barriers. Indeed, the state itself, the largest employer in Israel, does not enforce *The Equal Opportunities in Employment Law*. As the majority of the Palestinian community has traditionally relied on agriculture as their main source of income, state expropriation of lands forced Palestinians to seek work as wage-laborers, and thus to become primarily dependant on the Israeli economy.

⁶⁰ HCJ 6880/05, *Association for Civil Rights in Israel v. Minister of Finance, et al.*; HCJ 6901/05, *Mayor of Rahat Municipality, et al. v. Minister of Finance, et al.*

⁶¹ See the Supreme Court's decision in Hebrew at: <http://www.adalah.org/newsletter/ara/sep10/sc%20deciciosn%20in%20tax.pdf>

⁶² National Insurance Institute, *Poverty and Social Gaps, Annual Report 2008*, p. 15 (English).

⁶³ Adva Center, *Total Government Expenditure as Percentage of GDP*, 2003.

⁶⁴ OECD, *Israel: A divided society – Results of a review of labour-market and social policy*, 20 January 2010, available at: <http://www.oecd.org/dataoecd/0/40/44394444.pdf>

Table 3: Percentages of employees engaged in select industries, 2008⁶⁵

	Arab employees (%)	Jewish employees (%)
Construction (males) ⁶⁶	28.4	5.4
Unskilled workers	14.6	6.4
Business activities	5.6	14.3
Managerial positions	2.3	7.3
Banking, insurance and finance	0.8	4.3

Labor force participation

While the overall unemployment rate in Israel stood at 7.3% in 2008,⁶⁷ the figure among Arab citizens was higher, at 10.9%.⁶⁸ Further, of the 40 towns in Israel with the highest unemployment rates, 36 are Arab towns.⁶⁹ The rate of labor force participation is extremely low among Arab women: in 2008 the percentage of Arab women aged 15+ engaged in the civilian workforce was 21.1%, compared to a parallel figure of 57% among Jewish women.⁷⁰ These are among the lowest figures in the world, and far below the average in the OECD countries, in which 62% of women are in paid work.⁷¹ Furthermore, the average search for new jobs takes Arab women 64 weeks, over double the figure of Jewish women, at 31 weeks.⁷²

Military service

One way in which Palestinian citizens of Israel are discriminated against and excluded from the labor force is by the use of the military service criterion as a condition for acceptance for employment, often when there is no connection between the nature of the work and military experience. While the inclusion of military service in a job specification may seem neutral on its face, it has a discriminatory effect on Palestinian citizens of the state as they are exempted as a group⁷³ from performing military service on the basis of their national belonging.

Case study: Military service used to exclude Arabs from working as railway inspectors

In 2009, the Israel Railway Company (IRC) and a company that employs railway guards concluded a new agreement, according to which only those who have served in the Israeli military can be hired for these positions. As the vast majority of Palestinian citizens of Israel are exempted from military service, the decision discriminates against them. Over 130 Arab citizens are currently employed as railway guards, and the decision threatened all of their jobs and would prevent them from being employed as railway inspectors in the future. In April 2009, Adalah, the Tel Aviv University Human Rights Clinic, and Sawt el-Amel filed a lawsuit to the Tel Aviv Regional Labor Court challenging the agreement.⁷⁴ They represented two workers who have worked for the railway since 2008. Before they began working as

⁶⁵ CBS, Statistical Abstract of Israel 2008, No. 59, Table 12.18.

⁶⁶ CBS, Statistical Abstract of Israel 2008, No. 59, Table 12.12.

⁶⁷ CBS, Statistical Abstract of Israel 2008, No. 59, Table 12.23.

⁶⁸ CBS, Statistical Abstract of Israel 2008, No. 59, Table 12.10.

⁶⁹ Professor (Emeritus) Shimon Shamir (2005-09-19) *The Arabs in Israel – Two Years after The Or Commission Report*, 19 September 2005, available at:

<http://72.14.221.104/search?q=cache:DPczMyN0nWkJ:www.dayan.org/kapjac/files/shamirEng.pdf>

⁷⁰ CBS, Statistical Abstract of Israel 2009, No. 60, Table 12.1.

⁷¹ OECD, *Overview of Gender Differences in OECD Countries*, March 2010, available at:

http://www.oecd.org/document/51/0,3343,en_2649_37457_44720243_1_1_1_37457.00.html

⁷² The Ministry of Industry, Trade and Labor, *The Status of Employment of Arab Women Between the Ages of 18-65 in 2006*, 29 January 2008 (Hebrew).

⁷³ With the exception of men from the Palestinian Druze community, according to an agreement signed between Druze religious leaders and the state in 1956.

⁷⁴ Labor Lawsuit 4962/09, *Abdullah Tayeh v. the Israel Railway Company*.

inspectors on railway crossings, both men passed all the required theoretical and practical examinations. The lawsuit argued this work is civilian in nature and that using military service as a criterion for this employment would effectively close the door to Arab citizens of Israel, in violation of the principle of equality. In September 2009, the court issued a temporary injunction preventing the IRC from firing the 130 Arab employees on the ground that they have not performed military service.⁷⁵ Following a court hearing in February 2010, the Railway Company withdrew and cancelled the provisions.

Employment in the civil service

The state is the largest employer in Israel. Despite an amendment made in 2000 to *The Civil Service Law (Appointments) (1959)* that stipulates fair representation throughout the civil service, and all ministries and affiliated institutions “to both sexes... and... the Arab population including Druze and Circassian,” Palestinian citizens of Israel in general remain sorely underrepresented in the civil service. In 2006, Arabs made up just 5.92% of all civil service employees, of whom just 2% were Arab women.⁷⁶ Furthermore, over time there has been little improvement in the representation of Arab citizens in the civil service, in particular with regard to women, who also accounted for 2% of all civil service employees in 2001.⁷⁷ The situation is direr still in the Naqab district, where in 2010 Arab citizens made up less than 1% of civil service employees.⁷⁸ These figures seriously call into question the efficacy of the amendment to *The Civil Service Law (Appointments)* and/or the state’s efforts to further its implementation.

In addition, a number of government decisions have been issued over the past decade that order the implementation of the law and stipulate interim quotas for the representation of Arab men and women, including the target of 10% by 2010.⁷⁹ However, such interim targets have consistently been missed, and the representation of Arab citizens, men and women alike, remains disproportionately low. Table 4 details the representation of Arab citizens in major governmental ministries.

Table 4: Arab representation in Israeli government ministries, 2006⁸⁰

Ministry	No. of Arab employees	Total no. of employees	% of Arab employees
Health	1,935	26,753	7.2
Education	126	2,031	6.2
Justice	99	2,497	3.9
Industry, Trade & Labor	45	1,326	3.4
Transport	21	881	2.3
Housing	10	730	1.3
Finance	12	954	1.2

⁷⁵ For more information, see Adalah’s News Update, *Following Lawsuit by Adalah, Sawt el-Amel and the Tel Aviv University Human Rights Clinic, Labor Court Issues Temporary Injunction Preventing Dismissal of Arab Railway Workers*, 17 September 2009, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=09_09_17

⁷⁶ The Civil Service Commission, “Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service,” 2006 (Hebrew).

⁷⁷ Ali Hedar, “The Arab Citizens in the Civil Service,” *Sikkuy Report, Equality and the Integration of the Arab Citizens of Israel, 2000-2001*, citing an April 2001 report of the Governmental Companies Authority.

⁷⁸ The Negev Coexistence Forum for Civil Equality, *The International Day Against Racism, 21 March 2010, the Situation of the Arab Villages in the Negev*, March 2010 (Hebrew), available at: http://www.dukium.org/user_uploads/pdfs/doh.pdf

⁷⁹ These decisions include Government Decision 1832 of 29 April 2004; Government Decision 414 of 15 August 2006; Government Decision 2579 of 11 November 2007; and Government Decision 4437 of 25 January 2009. See the Third Periodic Report of the State of Israel to the UN Human Rights Committee, CCPR/C/ISR/3, 21 November 2008.

⁸⁰ The Civil Service Commission, “Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service,” 2006.

In most government ministries the representation of Arab citizens falls far short of the proportion they make up of the population—20%—and they are underrepresented in all ministries, including those that have a decisive impact on their lives, such as the Ministries of Transport (2.3%), Housing (1.3%) and Finance (1.2%). The two ministries with the most Arab employees are the Ministries of Education and Health; the vast majority of these employees work in Arab towns and villages or mixed cities providing services directly to Arab communities, e.g. as teachers, nurses and doctors. Arab professionals are rarely to be found in decision-making positions in the upper echelons of these ministries.

The boards of directors of government corporations

An amendment made in 2000 to *The Government Corporations Law – 1975* stipulates fair representation for the Arab population on the boards of directors of government corporations. Despite this legislation, as of July 2009, only 5.2% of sitting board members of governmental corporations were Arab men and just 2.7% Arab women citizens of Israel.⁸¹ Further, the representation of Arab citizens has risen little over time. In terms of the representation of women on these boards, while Israeli Jewish women's representation increased from 7% to 37.6% between 1994 and July 2009, the representation of Arab women has remained near-static at around 1-2% of the total.⁸² These figures reveal the inadequate nature of the measures taken by Israel to implement this law, in particular with respect to Palestinian women.

Limited employment opportunities

Arab towns and villages typically offer limited employment opportunities. In addition, the state is systematically failing to locate employment-generating industrial zones in Arab communities, preferring to concentrate them in Jewish towns and villages. Thus, for example, the state budget for 2008 allocated a total sum of NIS 215 million for developing industrial zones, of which just NIS 10 million was earmarked for Arab towns and villages, far less than the amount that the Ministry of Industry, Trade and Labor committed to allocate in previous years, at NIS 25 million.⁸³ Only 2.4% of all industrial zones in Israel are located in Arab towns and villages, and the Tziporit Industrial Zone alone, which covers approximately 6,000 dunams of land, is larger than all the developed industrial zones in all the Arab towns and villages in Israel combined.⁸⁴ Similarly, governmental incentives for new businesses and entrepreneurs have been sorely lacking in Arab towns and villages.⁸⁵

There is also a shortage of state-run daycare centers for Arab children in Israel: only 30 daycare centers cater to Arab children in the country, and as a result just 3.7% of Arab children under the age of four are enrolled in state-run daycare centers, compared to 16.3% of Jewish children in the same age group.⁸⁶ Despite the relative shortage of daycare centers for Arab children, the state continues to channel state funds to Jewish localities. The government recently announced the establishment of 150 new designated daycare centers, only 17 of which, or 11% in Arab

⁸¹ Data sent by the Authority for Governmental Corporations to Sikkuy – The Association for the Advancement of Civil Equality in Israel, dated 6 July 2009. According to this data, as of 6 July 2009, Jewish men accounted for 54.3% of the sitting board members of governmental corporation, Jewish women 37.6%, Arab men 5.2%, and Arab women 2.7%.

⁸² Ibid.

⁸³ Mossawa, *The Arab Population in the 2008 State Budget*, May 2008.

⁸⁴ Dr. Yosef Jabareen, *The Employment of Arabs in Israel*, The 18th Caesarea Forum, June 2010, available at: <http://www.idi.org.il/sites/english/events/TheAnnualEconomicForum/Pages/EconomicConference2010.aspx>

⁸⁵ The first ever government-funded initiative for private investment in Arab business in Israel was launched in March 2010. Part of the funding for the initiative, which is worth NIS 180 million (US \$49 million) is provided by the government and part by private investors, the Al-Bawader Group. See, e.g., Meirav Arlosoroff, "The Arab you don't know may be about to change the market," *Haaretz*, 4 March 2010. The results of the project remain to be seen.

⁸⁶ Orly Almagor-Lotan, *Day Care and Family Home Care Centers in the Arab Sector*, The Center for Research and Information, The Knesset, 7 July 2008 (Hebrew).

localities, while Arab children account for 25% of all children in Israel.⁸⁷ More poor Arab families are required to pay for private daycare and early education for young children, despite the fact that Arab families have a lower average income than Jewish families, and many are forced to forgo such services. The lack of suitable daycare facilities acts as a brake on the participation of Arab women in particular in the labor force: a rough indicator of this effect is that according to state statistics, the participation rate of married Arab women in the civil labor force stands at 14%, while the participation rate of single Arab women is 46.8%.⁸⁸

In addition, Arab citizens of Israel often have to travel long distances to reach employment offices, few of which are located in Arab towns and villages.⁸⁹ Aggravating the problem is the absence of frequent public transportation from many Arab towns and villages to central cities, which makes it more difficult, particularly for women and young people who do not own cars, to work elsewhere. Most bus lines do not enter Arab villages at all, or enter them very infrequently. The lack of adequate public transportation is in part the responsibility of the state, as the major public transportation system (Egged) is majority-owned by the government. “Since the establishment of the state the Arab sector has suffered from a low level of public transport services. The reasons for this are many and varied, but probably indicate a double-standard toward the Arab sector in general, which is probably also the main reason for discrimination in transportation.”⁹⁰ State-funded vocational training programs are often inaccessible to the Arab population as a result.⁹¹

As stated by the Organisation for Economic Co-operation and Development (OECD), “There is no doubt that the Arab-Israeli population faces many unique challenges in successfully integrating into Israeli society and realizing its full potential.”⁹² Clearly, the barriers that exist to the participation of Arab citizens of Israel, and women in particular, in the labor force have a dampening effect on the performance of the Israeli economy as a whole. Israeli society in general is poorer as a result of inequalities in employment opportunities. The lost potential to Israel’s economy as a result of the underemployment of the Arab labor force amounts in monetary terms to a total of around NIS 31 billion a year (approximately US\$ 8 billion), based on data for 2006.⁹³

Economic Assets: Land

Land is the most valuable economic asset in the State of Israel, and also one of the most significant indicators and sources of inequality. Jewish and Palestinian citizens of Israel have unequal access to land resources, land rights, and the ability to use the resource of land to develop their communities. Since 1948, the State of Israel has enacted a series of laws that have allowed it to systematically confiscate and transfer Palestinian-owned land to the state and

⁸⁷ Israel’s Fifth Period Report to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/ISR/5, 21 October 2009, p.210, para. 466.

⁸⁸ Ibid., p. 208, para. 462.

⁸⁹ E.g. in 2005, the Ministry of Industry, Trade and Labor rescinded its decision to close down an employment office in the Arab town of Kufr Kana in northern Israel only after Adalah and The Laborer’s Voice (Sawt el-Amel) petitioned the Supreme Court to demand that the office, which serves around 71,000 Palestinian citizens of Israel in the area, including over 4,000 job-seekers, be kept open. H CJ 8249/04, *Ziad Matar et al. vs. Ministry of Industry, Trade and Labor*.

⁹⁰ Asidon Yoram, “A gap of accessibility and mobility in Israeli society, and the social implications of change,” *Nature and Environmental Resource Studies*, The University of Haifa, Department of Nature and Environmental Resource Management, September 2004.

⁹¹ See, e.g. Kayan, *Women Demand Mobility: Documenting Local Women’s Experience in the Village of Maghar*, 2009 (English), available at: http://www.kayan.org.il/Public/mobility_doc_report_eng03.pdf

⁹² OECD, *Labour Market and Socio-Economic Outcomes of the Arab-Israeli Population*, 18 March 2010, p. 9, available at:

<http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=delsa/elsa/wd/sem%282010%292&doclanguage=en>

⁹³ Dr. Yosef Jabareen, *The Employment of Arabs in Israel*, The 18th Caesarea Forum, June 2010.

Zionist institutions, including the World Zionist Organization (WZO), the Jewish Agency, and the Jewish National Fund (JNF). Land controlled by the JNF, for example, constitutes around 13% of land in the state and is reserved for the exclusive use by Jews. Today, while Arab citizens constitute around 20% of the population of the state, only 3-3.5%⁹⁴ of the land in Israel is now owned by them, as compared to 48% in 1948. As much as **93%** of the land in Israel is now under the direct control of the state and the JNF, a quasi-state entity. This land is officially referred to as “Israel lands.” The remainder is owned by private Jewish and Arab individuals. A new land reform law, passed in August 2009, allows for the privatization of state-held land including land in destroyed and evacuated Palestinian villages belonging to internally-displaced persons (IDPs) as well as Palestinian refugees living abroad.⁹⁵

A massive transfer of land to the state and Zionist entities was executed through two laws enacted by the Knesset. Israel expropriated 1.2-1.3 million dunams of land (a dunam is a unit of land area equating to 1,000m²) from the Arab population under *The Land Acquisition (Validation of Acts and Compensations) Law – 1953* for alleged “essential settlement and development needs.” This land was confiscated from a total of 349 towns and villages, in addition to the “built-up areas” of around 68 villages, the precise area of which was not included in the expropriation orders.⁹⁶ All the property owned, possessed or used by the Palestinians who became refugees was transferred to the State of Israel under *The Absentees’ Property Law – 1950*.⁹⁷ The State of Israel, UN agencies, and private Palestinian individuals have given various estimations of the total amount of land confiscated pursuant to *The Absentees’ Property Law*, ranging from around 2 million dunams to 16 million dunams.⁹⁸

However, the process of legalizing the confiscation of Palestinian land continues today. A new amendment to *The Land Ordinance (Acquisition for Public Purposes) – 1943*, enacted in February 2010, is primarily aimed at confirming state ownership of land confiscated from Palestinians in perpetuity. The ordinance is a Mandate-era law later passed into Israeli law following the establishment of the state in 1948, and used to sanction the confiscation of large tracts of Palestinian-owned land for “public purposes.” Much of the confiscated land was used to establish new Jewish towns and villages. The amendment blocks Palestinian claims to restore land confiscated under the ordinance,⁹⁹ even where it was never used for the alleged public purpose for which it was originally confiscated, if ownership of the land has been transferred to a third party, or if more than 25 years have passed since its confiscation.¹⁰⁰

⁹⁴ Oren Yiftachel, *Lands, Planning and Inequality: The Division of Space Between Jews and Arabs in Israel*, Position Paper, The Adva Center (2000) (Hebrew).

⁹⁵ *Israel Land Administration (ILA) Law – 2009*. The new law is extremely prejudicial to the rights of Palestinian citizens of Israel, as well as Palestinian refugees. For more information see, *Adalah position paper on behalf of the High Follow-up Committee for Arab Citizens of Israel: Critique of the Israeli government's land reform bill*, 21 July 2009, available at: <http://www.adalah.org/newsletter/eng/jul09/jul09.html>

⁹⁶ See Adalah, *Database on the History of the State of Israel's Expropriation of Land from the Palestinian People*, available at: <http://www.adalah.org/features/land/flash/>

⁹⁷ Article 1(b) of *The Absentees’ Property Law* defines persons who were expelled or fled the country, or left their homes to seek temporary refuge elsewhere in Palestine from 29 November 1947 as “absentees.” Israel then placed their property under the control of the “Custodian for Absentees’ Property.” The full definition of an “absentee” under the law and the full text of the law in English is available from the UN Information System on the Question of Palestine (UNISPAL) at: <http://unispal.un.org/UNISPAL.NSF/0/E0B719E95E3B494885256F9A005AB90A>

⁹⁸ For more information, see Adalah’s Interactive Map and Database on the History of the State of Israel’s Expropriation of Land from the Palestinian People, available at: <http://www.adalah.org/features/land/flash/>

⁹⁹ The new law is silent regarding land confiscated under other laws, including laws enacted during the early years of the state, and in particular *The Land Acquisition Law – 1953*.

¹⁰⁰ The amendment also expands the Finance Minister’s authority to confiscate land for “public purposes” and allows the minister to alter the purpose of the confiscation and declare a new purpose if the initial purpose of the confiscation had not been fulfilled, and provides that the state has the right not to use the confiscated land for the specific purpose for which it was confiscated for a period of 17 years.

Today Palestinian citizens of Israel are in practice blocked from purchasing or leasing land on around 80% of the land in Israel on the basis of their national belonging.¹⁰¹ As a result, the vast majority of state land consists of segregated, Jewish-only areas. Two of the main mechanisms used to exclude Palestinian citizens from ownership and use of the land are “admissions committees,” and the discriminatory policies pursued by the JNF and state authorities.

Admissions committees

Admissions committees are bodies that select applicants for housing units and plots of land in “agricultural and community towns” in Israel. They are used in part to filter out Arab applicants from future residency in these locations, as well as other marginalized groups in Israel, such as Mizrahi Jews (Eastern Jews) and gays.¹⁰² These committees operate in 695 agricultural and community towns, which together account for 68.5% of the total towns in Israel, and around 85% of all villages.¹⁰³ The committees include “a senior official from the settlement agency (The Jewish Agency or The World Zionist Organization).”¹⁰⁴ Among the criteria these committees employ in assessing applicants is whether the candidate is “suited to social life in a small community or agricultural settlement,” a criterion that lacks any transparency and is open to wide interpretation and arbitrary considerations. The rejection of candidates’ applications on the basis of personal characteristics such as national belonging or religious background constitutes a violation of their right to equality. Moreover, the operation of admissions committees contributes to the institutionalization of racially-segregated towns and villages throughout the state and unequal access to the land. The ILA instituted admissions committees to bypass the landmark Supreme Court decision in *Qa’dan* in 2000¹⁰⁵ in which the court ruled that the Jewish Agency’s policy of excluding Arabs from state land constituted discrimination on the basis of nationality.

Case Study: The Zubeidat family—“socially unsuitable” to live in Rakefet

Ms. Fatina and Mr. Ahmed Zubeidat are a married Arab couple. They graduated from the College of Architecture at the Bezalel Academy of Arts and Design in Jerusalem with distinction, and they are both pursuing careers as architects. After marrying in 2006, the couple applied to live in the community town of Rakefet, located in Misgav in northern Israel. The Zubeidats were looking for a small town with a high level of services in which to raise their future children. An admissions committee operates in Misgav, which required the couple to take an acceptance test. The committee included a representative from the Jewish Agency. Following an interview with the couple the committee rejected their application on the humiliating ground of their “social unsuitability”. After being approached by the Zubeidats, Adalah filed a petition on their

¹⁰¹ 52 regional councils in Israel (this number excludes regional councils located in the occupied Golan Heights and West Bank) govern around 850 rural towns and villages in Israel covering 81% of state land in Israel, although they contain only around 8% of the state’s population. There are only three Arab regional councils, Al-Batouf, Bustan Al-Marj and Abu Basma. The majority of the towns and villages located within the jurisdiction of the regional councils are agricultural and community towns, from which Palestinian citizens are excluded. According to state figures, 99.6% of the population living in rural localities are Jewish citizens. Israel’s Fifth Period Report to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/ISR/5, 21 October 2009, p. 253, para. 565. For more information, see Adalah’s letter of 21 July 2009 to the Knesset concerning the transfer of property rights in rural and agricultural villages (English) at: http://www.adalah.org/features/land/admission_committees-Eng_FINAL%5B1%5D.pdf

¹⁰² Israel Land Administration Decision No. 1015, of 1 August 2004, provides for the operation of Admissions Committees and was made in cooperation with the Jewish Agency for Israel. The decision directs Admissions Committees of small community and agricultural towns to apply a number of criteria in deciding whether or not to recommend that the ILA accept a candidate’s request to live in one of these towns.

¹⁰³ These towns fall within the jurisdiction of 53 regional councils, which are distributed throughout the country and exercise control over around 81% of the total land-space in the state.

¹⁰⁴ As stipulated in ILA Decision No. 1015.

¹⁰⁵ HCJ 6698/95, *Adel Qa’dan v. The Israel Land Administration*. An English translation of the ruling is available at: http://elyon1.court.gov.il/files_eng/95/980/066/a14/95066980.a14.pdf

behalf to the Supreme Court in September 2007 demanding the cancellation of admissions committees.¹⁰⁶ Adalah argued that the actions of these committees contradict the right of citizens to choose their place residence. Adalah further argued that the criterion of “social suitability” is arbitrary and open to wide interpretation. In October 2007, the court issued an injunction ordering Rakefet to set aside plot of land for the Zubeidat family pending a final decision on the petition. The petition remains pending.

In response to legal challenges against the operation of admissions committees, in March 2010 the ILA announced changes to the arrangements that govern their operation. However, the new ILA arrangement is not substantially different from the previous one. Both are based the same, discriminatory mechanism of admission committees, and both stipulate the same criteria for accepting candidates, including the arbitrary criterion of “suitability.” Adalah submitted an amended petition to the Supreme Court demanding the cancellation of regional “admissions committees” in May 2010.¹⁰⁷ In parallel, in November 2009 a new bill was tabled that proposes to establish the operation of admissions committees in law, in accordance with the internal by-laws of individual community towns.¹⁰⁸ While this bill seemed likely to pass in November 2010, it was hurriedly taken off the agenda due to heavy pressure from various interested parties in Israel and abroad. Various community towns have approved new bylaws that stress the Jewish and Zionist character of the towns¹⁰⁹ and set, for example, Zionist values and “loyalty to the Zionist vision”¹¹⁰ as conditions for admission.

Discriminatory land policies: The state and the JNF

Since 1948, enormous tracts of Arab-owned land have been confiscated or otherwise appropriated by law and taken into the possession of the state or Zionist institutions, including the JNF, for exclusive use by Jewish people. This land, known as “Israel lands,” includes JNF-owned land. Under Israeli law the Land Authority Council, a state agency, manages “Israel lands.” This body replaced the Israel Land Administration (ILA) in mid-November 2009¹¹¹ and performs essentially the same functions.

Of the 2.5 million dunams of land currently owned by the JNF (approximately 13% of the total land in Israel), close to two million dunams were transferred to it by the state in 1949 and 1953, giving the JNF special status under Israeli law.¹¹² Furthermore, for decades the JNF has enjoyed a

¹⁰⁶ HCJ 8036/07, *Fatina Ebriq Zubeidat, et al. v. The Israel Land Administration, et al.* Adalah filed the petition on behalf of the Zubeidat family and a broad coalition of human rights and social change organizations: Another Voice in the Galilee (*Kol Aher BaGalil*), the Mizrahi Democratic Rainbow (*HaKeshet*), Bimkom: Planners for Planning Rights, the Jerusalem Open House for Pride and Tolerance, and the Arab Center for Alternative Planning. The case is pending.

¹⁰⁷ See, Adalah, “Adalah Submits Amended Supreme Court Petition Demanding Cancellation of “Admission Committees” for Illegally Excluding Arab Citizens of Israel from Communities Built on State-Controlled Land,” 27 July 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=27_07_10_1

¹⁰⁸ Legislative bill no. 18/1740, which proposes to amend *The Communal Associations Ordinance – 1933* from the Mandate period.

¹⁰⁹ According to amendments made to the bylaws of the community town of Mitzpeh Aviv in 2009. Ibid.

¹¹⁰ According to amendments made to the bylaws of the community towns of Manof and Yuvalim in 2009. Adalah submitted a letter to the Attorney General on 13 December 2009 demanding the cancellation of these conditions in the bylaws of the towns. See also Jack Khoury and Jonathan Lis, “Israeli towns continue to rewrite bylaws to keep Arabs out”, *Haaretz*, 16 December 2010.

¹¹¹ Established in accordance with the government decision of 12 May 2009 on reforming the ILA and the new land reform law, enacted in August 2009.

¹¹² See Amon Golan, “The Acquisition of Arab Land by Jewish Settlements in the War of Independence,” in *Catedra*, vol. 63 (1992), pp. 122-54 (Hebrew); Yifá’at Holtzman-Gazit, “The Use of Law as a Status Symbol: The Jewish National Fund Law – 1953 and the Struggle of the JNF to Establish its Position in the State,” in *Iyoni Mishpat*, vol. 26 (2002), pp. 601-44 (Hebrew). The JNF claims that it bought 1.25 million dunams of land from the state immediately after the establishment of Israel, using donations from Jews from around the world. See the JNF’s response, December 2004, to HCJ 9205/04, *Adalah, et al. v. The Israel Lands Administration, et al.* (case pending).

substantial role in formulating Israel's land policies over state land—93% of land in the state—since in accordance with *The ILA Law – 1960*, around 50% of seats in the ILA Council have been allocated to the JNF representatives.¹¹³ Similarly, the final membership of the newly-established Land Authority Council will include six representative of the JNF among its thirteen members.¹¹⁴

The majority of JNF-controlled land previously belonged to Palestinian refugees and IDPs (around 25% of all Palestinian citizens of Israel are IDPs). According to ILA policy, JNF-controlled land is marketed and allocated through bids open only to Jews, completely excluding Palestinian citizens. The JNF's principles prohibit the allocation of rights to lands under its ownership to someone who is not a Jew. In response to a Supreme Court petition filed by Adalah to challenge the ILA's policy, the JNF argued that, "As the owner of JNF land, the JNF does not have to act with equality towards all citizens of the state."¹¹⁵ However, Adalah argued that the ILA, as a public agency established under law, is not authorized to pursue goals contrary to the principles of equality, just distribution and fairness, and cannot be a sub-contractor for discrimination on the basis of nationality. In 2005, the Attorney General decided that the ILA cannot discriminate against Arab citizens in marketing and allocating JNF-owned land. However, he also decided when a non-Jewish citizen wins a tender for a plot of JNF land, the ILA will compensate the JNF with an equal amount of land, an arrangement that clearly fails to end discrimination against Arab citizens.¹¹⁶ The case challenging this arrangement remains pending before the Israeli Supreme Court.

Population density and overcrowding in Arab towns and villages

Arab towns and villages in Israel suffer from severe overcrowding, with Arab municipalities exercising jurisdiction over only 2.5% of the total area of the state. For example, the state-regulated jurisdiction of Nazareth (the largest Arab town in Israel), which has a population of around 70,000, is 16,000 dunams.¹¹⁷ A comparison with the neighboring Jewish town of Natserat Illit brings the existing inequality into sharp relief: Natserat Illit, with a population of 50,000, has jurisdiction over 40,000 dunams of land.¹¹⁸ Since 1948, the State of Israel has established approximately 600 Jewish municipalities, whereas no new Arab village, town or city has been built.¹¹⁹

¹¹³ For more information see *Statement submitted by Habitat International Coalition and Adalah to the UN Commission on Human Rights*, 62nd Session, April 2006, available at: <http://www.adalah.org/eng/intl06/un-i6-jnf.pdf>

¹¹⁴ The Prime Minister's Office, *Government Decision 902: Appointment of Members of the Israel Lands Council*, 15 November 2009 (Hebrew), available at: <http://www.pmo.gov.il/PMO/Secretarial/Decisions/2009/11/des902.htm>

¹¹⁵ The JNF's response to HCJ 9205/04, *Adalah v. The Israel Land Administration, et al.* (case pending). The JNF also stated that its "loyalty is to the Jewish people and its responsibility is to it alone."

¹¹⁶ HCJ 9205/04, *Adalah v. The Israel Land Administration, et al.* (case pending). This arrangement was formalized in "The Principles of the Agreement between the State and the JNF," signed on 26 May 2009. The agreement also states that the JNF will transfer land assets it has allocated to third parties for housing and employment to state ownership; in exchange, the state will transfer land of the same amount in the Naqab and the Galilee to the JNF. The agreement stipulates that the JNF agrees to the administration of its land by the newly-established Land Authority Council, to replace the ILA, "in a way that will preserve the principles of the JNF in regard to its lands." The location of this land intensifies the anticipated harm to the Arab population because this population lives primarily in the Naqab and Galilee, and is in dire need of additional land resources.

¹¹⁷ Information obtained from the Nazareth Municipality.

¹¹⁸ *Ibid.* In the 1960s, the state appropriated land from Nazareth in order to build Natserat Illit.

¹¹⁹ The state built seven townships in the Naqab in order to concentrate the Arab Bedouin on as little land as possible after removing them from their original land. These townships—Lagiyya, Hura, Kseiffe, 'Arara, Tel el-Sabe (Tel Sheva), Shegheb al-Salam, and Rahat—are the poorest communities in Israel, with the worst infrastructure and services. The state has also recognized ten previously-unrecognized Bedouin villages—Kassar Alser, Moladah, Makhoul, Darijat, Abu Qrenat, Um Batin, Bir Hadaj, Tarabin al-Sana, al-Sayyid and Kuhli—which are also intended to be sites of further relocations from the unrecognized villages. They fall under the authority of the Abu Basma Regional Council, established in 2004.

At the level of the individual household, Arab citizens live in far more cramped conditions than Jewish citizens of the state. In 2008, the average housing density among Arabs was 1.43 persons per room, compared to 0.84 among Jews.¹²⁰ While over half (58.7%) of Jewish citizens live in the most non-crowded conditions—in dwellings with less than one person per room—less than a fifth (18.1%) of Arabs live in similar conditions.¹²¹ Moreover, the percentage of Arabs living in dwellings with less than one person per room remained virtually unchanged between 2001 and 2008, at 18.3% and 18.1% respectively; during the same period, the percentage of Jewish citizens living in such dwellings increased significantly from 53.8% to 58.7%.¹²² 26.6% of Arab citizens live in cramped conditions in dwellings with 2+ persons per room, compared to just 3.6% of Jewish citizens, and 4.9% of Arab citizens live in dwellings with 3+ persons per room, compared to just 0.4% of Jewish citizens.¹²³ Further, these figures exclude the Arab Bedouin who live in the unrecognized villages in the Naqab, where levels of overcrowding are typically very high.

The Naqab

Palestinian Arab Bedouin in the Naqab currently number at least 170,000 people,¹²⁴ or **14%** of the total population of the Naqab, projected to rise to 320,000 by 2020.¹²⁵ Of the 14,245,000 dunams of land in the Southern District, the total number of dunams currently under the jurisdiction of the seven government-planned Arab Bedouin townships in the Naqab is around 76,800 dunams,¹²⁶ and a further ten newly-recognized towns and villages have jurisdiction over a further 58,600 dunams,¹²⁷ which combined account for a mere **0.9%** of land in the district.¹²⁸ The vast majority of Arab Bedouin citizens of Israel living in the Naqab have been expelled from their ancestral lands, some on repeated occasions.

Between 75,000 and 90,000 Arab Bedouin in the Naqab live in around 40 unrecognized Arab villages throughout the Naqab, referred to by the state as “illegal clusters.”¹²⁹ With no official status, these villages are excluded from state planning and government maps, have no local councils, and receive little-to-no basic services, including electricity, water, telephone lines, or education or health facilities. The Israeli government views the inhabitants of these villages as “trespassers on state land,”¹³⁰ although many have been living on these lands—the ancestral lands of the Arab Bedouin—prior to the establishment of the state in 1948, and although state attempts to assert ownership claims on the land are vehemently disputed. Others, expelled from their ancestral lands by the state, were forced to move to their current locations by the military government imposed on the Palestinians in Israel between 1948 and 1966, and thus face the threat of expulsion for a second or even third or fourth time.

There has been no official registration of most land ownership in the Naqab. In the early 1970s the Israeli authorities began to allow citizens of Israel in the Naqab to submit land registration applications in accordance with *The Land Registration Ordinance – 1969*. In response, some

¹²⁰ Israeli CBS, Statistical Abstract of Israel 2009, No. 60, Table 5.23.

¹²¹ Ibid.

¹²² CBS, Statistical Abstract of Israel 2008, No. 59, Table 5.20.

¹²³ CBS, Statistical Abstract of Israel 2008, No. 59, Table 5.23.

¹²⁴ Israel’s Fifth Period Report to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/ISR/5, 21 October 2009, p. 254, para. 566.

¹²⁵ Mustafa, M. and M. Subhi, *Unlicensed: The Policy of Demolishing Arab Homes in Israel*, Center for Contemporary Studies, 2005, p. 48 (Arabic).

¹²⁶ Lagiyya, Hura, Kseiffe, ‘Arara, Tel el-Sabe (Tel Sheva), Shegheb al-Salam, and Rahat.

¹²⁷ Kassar Alser, Moladah, Makhoul, Darijat, Abu Qrenat, Um Batin, Bir Hadaj, Tarabin al-Sana, al-Sayyid and Kuhli.

¹²⁸ GIS data obtained from the Arab Center for Regional Planning (ACAP), 20 December 2010.

¹²⁹ The Regional Council for the Unrecognized Villages in the Naqab, telephone conversation held on 8 March 2009. Because regular data on the unrecognized villages is not gathered by the state authorities it is not possible to state their precise population, but only an approximate range.

¹³⁰ Attorney General of Israel’s Response to Adalah’s petition HCJ 2887/04, *Salem Abu Medeghem, et al. v. The Israel Land Administration, et al.*

Arab Bedouin citizens submitted applications for hundreds of thousands of dunams of land. Under this process, the state claimed ownership of lands that were not registered in the Land Registry (Tabu). Simultaneously, those holding or residing on land were given an opportunity to claim and prove ownership of the land. However, many landowners did not know of the new process or the right to claim land ownership. Moreover, the authorities have not examined the applications that were submitted. According to Bedouin custom, land ownership was governed by social and traditional rules which developed over hundred of years, and which the state does not recognize. Despite the lack of a legal resolution to the issue of land ownership, the state is making use of the land, sometimes in cooperation with the JNF, for example, in order to plant forests. In 2008, Adalah represented Mr. Nouri Al-Uqbi after Israeli police attempted to expel him from his land in the area of al-Araqib after the JNF repeatedly attempted to plant a forest on it, and thus in practice confiscate the land to state ownership.¹³¹ On 8 September 2008, the Magistrates' Court in Beer el-Sabe (Beer Sheva) rejected a request by the Israeli police to expel Mr. Al-Uqbi from his land. The Israeli authorities destroyed the entire village of al-Araqib in July 2010. Residents have attempted to rebuild their village several times; the state has demolished the new structures after each attempt.¹³²

Israel is now making intensified efforts to forcibly evacuate the unrecognized villages and concentrate the Arab Bedouin in the Naqab into the over-crowded and impoverished townships. One of the most extreme means employed by Israel to empty the unrecognized villages is demolishing Arab Bedouin homes on the pretext of violations of land and planning laws. Although accurate figures are difficult to obtain and official state documentation is not published, between 2000 and 2007, at least 3,084 Arab homes were demolished in Israel, the majority in the unrecognized villages in the Naqab.¹³³ Villages that have been fully or partially demolished in recent years include Umm el-Heiran, al-Surra, Tweiyyah and al-Araqib.

Case study: The destruction of the unrecognized village of Al-Araqib in the Naqab

On 27 July 2010, residents of the Arab Bedouin unrecognized village al-Araqib were awoken at dawn to find themselves surrounded by police officers, some on horseback. The police, carrying guns, tear gas, truncheons and other arms, declared the village a "closed area" and ordered its 250 residents—including women, children and the elderly—to leave their homes in two minutes, warning that any attempt to resist their orders would lead to their forced evacuation. 1,300 police officers immediately began to demolish the homes while the residents were trying to salvage their belongings. All 45 houses were razed to the ground and the villagers were left without a roof over their head, with all their belongings confiscated. The police also uprooted around 4,500 olive trees. Representatives of the Tax Authority accompanied the police and seized property of indebted residents. This confiscation was undertaken without prior warning or demand to the residents to pay their debt, and was therefore illegal. The village was destroyed for the second time a week later, with police again using violent means and excessive force, including pushing, stomping, dragging, assaulting and cursing the people who were present in the village at the time. Adalah immediately demanded a criminal investigation into the police involved in the demolition operation, and into the presence of Tax Authority officials and the illegal debt collection operation.¹³⁴

¹³¹ For more information, see Adalah News Update, *JNF Attempt to Takeover Arab Bedouin Land: Beer el-Sabe Court Rejects Police Demand to Expel Civil Society Leader Mr. Nouri Al-Uqbi, Represented by Adalah, from his Land*, 10 September 2008, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=08_09_10_1

¹³² See, e.g., Arabs48, *The destruction of the village of Al-Araqib in the Naqab for the fifth time*, 13 September 2010, available at: <http://www.arabs48.com/display.x?cid=6&sid=5&id=73756>

¹³³ The Israeli Committee Against House Demolitions (ICAHN), telephone interview on 21 July 2009.

¹³⁴ See, Adalah, "Adalah Demands Immediate Criminal Investigation into Police Officers Brutal Destruction of Arab Bedouin Unrecognized Village al-Araqib in the Naqab," 3 August 2010, available at:

The evacuation and demolition of the unrecognized villages is contrary to the recommendations of the Goldberg Commission, formally known as “The Advisory Committee on the Policy regarding Bedouin towns,” as presented to the government in December 2008 (see the State’s Report, paras. 477-482). The Goldberg Commission recommended, inter alia, the official recognition of the unrecognized villages, according to limitations, and their incorporation within the existing array of towns and villages.¹³⁵ Despite this conclusion, the state has rejected the option of granting recognition to the unrecognized villages and is now stepping up its efforts to dispossess the Bedouin and displace them from their land. The extraordinary direct and illegal intervention of the Prime Minister’s Office (PMO) recently resulted in the reversal of a decision to grant recognition to all or part the villages of Atir – Umm al-Hieran and Tel Arad.¹³⁶

Case study: The attempted evacuation of the unrecognized village of Atir–Umm al-Hieran

On 30 July 2009, the Beer el-Sabe Magistrate Court ordered the eviction of a number of residents from their homes in the unrecognized village of Atir – Umm al-Hieran in the Naqab. The order is the latest in a series of eviction proceedings aimed to uproot the village in preparation for the establishment of a new town named “Hiran,” planned exclusively for Jewish residents. The land designated for Hiran includes the land on which Atir – Umm al-Hieran is located. A report by the Israel Land Administration (ILA) identifies the Arab Bedouin inhabitants of the area as a “special problem” that may affect the establishment of Hiran.¹³⁷ Atir – Umm al-Hieran was established by order issued by the Israeli military governor in 1948, after the military forces had forcefully evicted its residents from their homes and land in Wadi Zuballa. The tribe was prevented from returning to live or work on the land. This transfer was not the first time that the villagers were evicted from their homes: they were displaced in 1948 to Hirbat al-Hanzail and then to Kokheh and Abu Kaff. In 1956, the villagers were displaced for the third time to Wadi Atir, where they live today, having received assurances from the military governor that they would be permitted to remain on the land permanently. The people established the village and built permanent brick and cement homes, and worked to rebuild their familial and social lives, which had been disrupted by each expulsion. Today, 150 families made up of around 1,000 people live in the village, all members of the Abu al-Qia’an tribe. Adalah has been defending residents of Umm al-Hieran against attempts to expel and dispossess them since 2004. On 21 October 2009, Adalah submitted an appeal against the Beer el-Sabe Magistrate Court’s to the Beer el-Sabe District Court.¹³⁸ In the appeal, Adalah demanded the cancellation of the eviction orders and a halt to the evacuation of the entire village.¹³⁹

Another tool that the State of Israel has begun to employ for the purpose of “Judaizing” the land in the Naqab and “protecting state lands” is the establishment of what are know as “individual

http://www.adalah.org/eng/pressreleases/pr.php?file=03_08_10_2; Adalah, “For the Second Time in Eight Days Police Use Brutal Force to Violently Evacuate Arab Bedouin Residents of Unrecognized Village of al-Araqib in the Naqab,” 4 August 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=04_08_10

¹³⁵ The Report of the Goldberg Commission, December 2008, para. 108.

¹³⁶ On 20 July 2010, the National Council for Planning and Building (NCPB) decided to recognize the two villages, following a recommendation made by a special investigator appointed by the NCPB to help consider objections submitted against the Metropolitan Plan for Beer el-Sabe (Beer Sheva) by Adalah, the Regional Council for Unrecognized Villages in the Naqab (RCUV) and Bimkom. On 16 November 2010, Adalah sent an urgent letter in its own name and on behalf of the RCUV and Bimkom to the NCPB asking that it reject the request to change its decision.

¹³⁷ Israel Lands Administration and the Ministry of National Infrastructure, *New and renewed settlements in Israel*, Jerusalem, 2001 (Hebrew).

¹³⁸ Civil Appeal 11165/09, *Ibrahim Abu Al-Qia’an et al. v. The State of Israel* (Beer el-Sabe (Beer Sheva) District Court).

¹³⁹ For more information, see Adalah News Update, “Adalah Appeals against Court Decision Evicting Residents from Arab Bedouin Unrecognized Village of Umm al-Hieran in the Naqab,” 25 October 2009, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=09_10_25_1. The appeal remains pending.

settlements.” These settlements are inhabited, in general, by single Jewish families, which are provided with hundreds and sometimes thousands of dunams of land for their exclusive use. There are around 60 individual settlements in the Naqab, stretching over 81,000 dunams of land.¹⁴⁰ The government’s “Wine Path Plan” seeks to establish individual settlements by retroactively legalizing these existing settlements and allowing for the construction of a number of new ones, thereby distributing vast and lucrative portions of land in the Naqab exclusively to Jewish citizens.¹⁴¹ This policy prevents equal access to the land for the entire population of the Naqab. On 30 March 2006, Adalah submitted a petition to the Supreme Court demanding the cancellation of the “Wine Path Plan”.¹⁴² The court ruled to uphold the planning authorities’ decision to establish individual settlements on 15 June 2010, finding that the decision to approve the plan fell within planning policies and that it had no authority to intervene. The court did not address the petitioners’ arguments concerning the disparate impact of the plan, and specifically the unequal distribution of land and the discrimination against the Arab Bedouin unrecognized villages entailed by the plan. Meanwhile, on 12 July 2010, the Knesset approved a new law to legalize individual settlements retroactively, including those that lie outside the Wine Path Plan.¹⁴³

Following its recent review of Israel, the UN Human Rights Committee recommended that Israel should “respect the Bedouin population’s right to their ancestral land and their traditional livelihood based on agriculture.”¹⁴⁴

Educational Access/Attainment

Palestinian Arab school children in Israel comprise approximately 25% of the country’s school students, at around 480,000 pupils.¹⁴⁵ From elementary to high school, Arab and Jewish students learn in separate schools. Systematic, institutionalized discrimination in the education system in Israel impedes the ability of Arab students to develop the skills and awareness to participate on an equal basis as individuals and as a community in a free society. The state education system ignores the rights, the needs, and the priorities of Arab students, and thus denies them the opportunity to develop a positive cultural and national identity. The three primary sources of inequality are the denial of the right to determine educational goals and objectives, the discriminatory allocation of state resources to Arab schools and students, and the inadequate representation of Arab citizens in decision-making positions in the Ministry of Education (MOE).

Denial of the right to determine educational goals and objectives

The MOE retains centralized control over the form and substance of the curriculum for Arab schools. *The State Education Law – 1953*, as amended in February 2000, sets educational objectives for state schools that emphasize Jewish history and culture. Article 2 of the law specifies that the primary objective of education is to preserve the Jewish nature of the state by teaching its history, culture, language, etc. Article 2(11) stipulates that one objective of education is to acknowledge the needs, culture and language of the Arab population in Israel. However, this rather weakly-worded article is not being implemented and this objective has not been realized. In reality, students in Arab state-run schools receive very little instruction in Palestinian or Arab history, geography, literature and culture, and spend more time learning the

¹⁴⁰ Hana Hamdan, “The Policy of Settlement and “Spatial Judaization in the Naqab,” *Adalah’s Newsletter*, vol. 11, March 2005, available at: <http://www.adalah.org/newsletter/eng/mar05/ar2.pdf>

¹⁴¹ Formally known as Regional Master Plan TAMAM 4/14/42: Partial District Master Plan for the Southern District – Amendment No. 42.

¹⁴² *HCJ 2817/06, Adalah, et al. v. The National Council for Planning and Building, et al.* (case pending for decision).

¹⁴³ The law amends *The Negev Development Authority Law – 1991*.

¹⁴⁴ Concluding Observations of the Human Rights Committee – Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 24.

¹⁴⁵ In the 2007/2008 school year their number stood at 480,517 pupils. CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.13.

Torah than the Qur'an or the New Testament. While state religious schools established only for religious Jewish students maintain autonomous control over their curricula, the curriculum for Arab state schools are entirely determined by the state. While Arab schools do have a separate curriculum taught in Arabic, it is designed and supervised by the MOE, where Arab educators and administrators have little-to-no decision-making powers. Arabs account for only 6.2% of the total number of employees in the MOE,¹⁴⁶ the vast majority of whom work in Arab towns and villages or mixed cities providing services directly to Arab communities. Arab professionals are rarely found in decision-making positions in the upper echelons of the ministry.

The MOE issued a report entitled "The Government of Israel Believes in Education" in 2009 that instructs that references to the word "Nakba" be removed from new Arabic textbooks.¹⁴⁷ The *Nakba* (catastrophe in Arabic) is used to refer to the mass expulsion of Palestinians and the destruction and confiscation of the majority of Palestinian land and property that accompanied the establishment of the State of Israel in 1948, a seminal event in Palestinian history.

In parallel, a new bill commonly referred to as "the Nakba Law", an amendment to *The State Budget Law – 1985*, proposes to ban all bodies that receive state funding from spending money on an activity that, inter alia, "commemorates Independence Day or the day of the establishment of the state as a day of mourning."¹⁴⁸ Palestinians traditionally mark Israel's official Independence Day as a national day of mourning and organize commemorative events. According to the current draft of the legislation, any state-funded body found to have commemorated the Nakba on Israel's Independence Day faces a fine of up to ten times the sum expended on the commemoration. The ban affects not only public institutions like schools, but also NGOs and other civil society and political organizations that receive even a small amount of state funding.

Discriminatory allocation of state resources to Arab schools and students

The MOE severely underfunds Arab schools in Israel. Israel does not regularly release official data detailing how much it spends in total on each Arab and Jewish student, and there are no separate lines in the state budget for Arab education, a major gap in transparency.¹⁴⁹ However, state statistics published in 2004 reveal that for the academic year 2000-2001 public investment in Arab schools equaled an average of NIS 534 per Arab student, compared to NIS 1,779 per Jewish student or three times more.¹⁵⁰ This under-funding is manifested in many areas, including the poor infrastructure and facilities characteristic of Arab schools, and the more crowded classrooms: the average class size in Jewish schools is 26 pupils compared with 30 pupils in Arab schools.¹⁵¹ In terms of long-term investment in the education, only four teacher training institutes operate in the Arab education system, compared to 55 in the Hebrew education system.¹⁵² The report issued by

¹⁴⁶ The Civil Service Commission, "Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service," 2006.

¹⁴⁷ Gideon Saar, "The Government of Israel Believes in Education," August 2009 (Hebrew), available at: http://meyda.education.gov.il/files/owl/hebrew/alsederhayom/education_presentation_final_opt.pdf. The report has been adopted by the Ministry of Education and is now being implemented.

¹⁴⁸ Article 3B(a)(1) of *The State Budget Law, Amendment: Prohibited Expenses – 2009*, legislative bill no. 18/1403. The bill was tabled by MKs from the Yisrael Beiteinu party and has been endorsed by the Ministry of Justice. The Knesset passed the bill on first reading in March 2010.

¹⁴⁹ The state budget for education is structured in such a way as to prevent analysis of exactly how much funding Arab education receives. The budget is broken down into 20 general articles, of which only one includes a breakdown of spending on Arab and Jewish education, namely the Pedagogy Administration, the executive arm of the MOE. The Pedagogy Administration allocated 4% of its budget to Arab education in 2006 and 3% in 2007. In addition, in line with the State Budget for 2006, drawn up by the MOE, just 1.5% of the state funds allocated to NGOs working in the field of education were allocated to NGOs providing educational services to Arab children and students. See the State Budget, 2006 and 2007 (Hebrew).

¹⁵⁰ CBS, "New Survey – Investment in Education 2000/1," 3 August 2004 (Hebrew).

¹⁵¹ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.9.

¹⁵² CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.44.

Minister of Education Gideon Saar in August 2009 proposes that schools with high rates of army drafting among their pupils receive higher budgetary allowances.¹⁵³ This provision clearly discriminates against Arab schools since the vast majority of Palestinian citizens of Israel are exempted from military service. The report also proposes the allocation of more compulsory hours for the teaching of Jewish history and heritage per week. While Arab schools were exempted from these classes, no alternative lessons for the teaching of Palestinian history and heritage are proposed in their place and Palestinian children will therefore not benefit from the extra teaching hours. The plan therefore stands to widen the huge gaps in investment that exist between schools in the Arab and Jewish education systems, and entrench existing inequalities in educational achievement.¹⁵⁴

Early childhood education

Educational disadvantage for Arab children in Israel begins from the earliest stages of the educational process. While *The Compulsory Education Law – 1949*, as amended in 1984, lowered the age of compulsory education from five to three years old, few state-funded preschools operate in Arab towns or villages in Israel. As a result, in 2007/2008 around 67.4% of Arab two to five-year-olds were enrolled in kindergartens, compared to 84.9% of Jewish children of the same age group, a gap that is larger in the youngest age groups.¹⁵⁵ Furthermore, fewer Arab families can afford to send their children to private institutions, with only 2.4% Arab children aged two-to-five years enrolled in private kindergartens, compared with 13.2% of Jewish children of the same age.¹⁵⁶

Primary and secondary school education

Due largely to the state's underfunding of Arab schools, Jewish school children outperform Arab children from early on in their education. By grade 5, Jewish children gain an average score of around 79% in the Hebrew examination, while Arab children score on average 61% in the examination of Arabic, their native tongue.¹⁵⁷

Arab children attend school for fewer years than Jewish children, and in recent years the gap between the two groups has not closed: from 2003 to 2006, Arab children aged 15 and over received an average of 11.1 years of schooling. During the same period, Jewish children received an average of 12.7 years of schooling, i.e. *over one and a half additional years*.¹⁵⁸ Accordingly drop-out rates are higher among Arab citizens: the average rate at which pupils dropped out of the education system in 2006-2008 was 7.2% among Arab pupils in grades 9-12, almost double the figure among Jews (3.7%); a similar pattern of dropping-out applies to grades 9-11: 8.7% among

¹⁵³ Gideon Saar, "The Government of Israel Believes in Education," August 2009 (Hebrew).

¹⁵⁴ On 27 August 2009, Adalah sent a letter to Minister Saar demanding that the discriminatory provisions contained in the plan be removed.

¹⁵⁵ CBS, Statistical Abstract of Israel 2009, No. 60, Table 8.4.

¹⁵⁶ Ibid.

¹⁵⁷ The website of the Ministry of Education, press release dated 6 February 2008, "Good results in examinations in mathematics, English and science in Haifa" (Hebrew). According to the press release, Jewish children in the Haifa District scored an average of 79% in Hebrew language examinations, a score quoted as being similar to the national average, while Arab children in the Haifa District scored an average of 62% in Arabic language examinations, quoted as slightly higher than the national score for Arab children of 61%. Part of the reason for the lower educational achievement of Arab students is the low standard of the Arabic text books used in Arab schools, which must be approved by the state. A recent study conducted by the Arab Cultural Association into all Arabic text books taught to first and second grade pupils found many to be of a poor quality; the survey found a total of approximately 4,000 mistakes and inaccuracies in the textbooks, including 892 linguistic and grammatical errors. The findings of the research were presented at a conference held by the Arab Cultural Association on 6 November 2009 in Nazareth. For more information, see: <http://www.arabcultural-a.org/shownews.php?ID=199>

¹⁵⁸ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.3.

Arab compared to 4.4% among Jewish pupils.¹⁵⁹ The drop-out rate is particularly alarming among the Arab Bedouin in the Naqab, at around 70% overall.¹⁶⁰

Case Study: The first high school in the “unrecognized” Bedouin villages in the Naqab

No high schools currently exist in any of the Arab Bedouin unrecognized villages in the Naqab. The region of Abu Tulul – El-Shihabi is home to approximately 12,000 Arab Bedouin citizens, and contains seven unrecognized villages. Around 750 female and male students are of high school age; however, only approximately 170 attend high school. The rest—around 77% of the total—drop out of school permanently as a direct consequence of the lack of a local high school. The nearest high school is located 12-15 kilometers away; no public transport is provided for the students and many parents will not allow their daughters to travel unaccompanied outside the vicinity of the village. In 2005, Adalah filed a petition to the Supreme Court on behalf of 35 Arab Bedouin girls and six local NGOs to demand that an accessible high school be built in Abu Tulul – El-Shihabi.¹⁶¹ In January 2007, the Supreme Court approved a settlement between the MOE and Adalah, according to which the MOE would establish a high school in Abu Tulul – El-Shihabi, the first in any unrecognized village, and operate it from 1 September 2009. Despite this agreement, the MOE has yet to open a school. On 22 September 2009, Adalah filed a new petition to the Supreme Court demanding that the state open the school, and that the non-implementation of the decision to date be considered a contempt of court.¹⁶²

Higher education

Arab students are dramatically underrepresented in Israel’s institutes of higher education. In 2006/2007, 9.1% of Jewish citizens in Israel aged 20-29 were students at universities, compared to 3.8% of Arab citizens.¹⁶³ A major obstacle to the admission of Arab students into universities is their relatively poor performance on matriculation exams (the *Baghrouit*). In 2007, 54.1% of Arab women and 39.5% of Arab men received matriculation certificates, compared to 70.5% of Jewish women and 61.1% of Jewish men.¹⁶⁴ Furthermore, the gap between Arab and Jewish students widens further when it comes to meeting the requirements for entering university, as Table 5, below, illustrates.

Table 5: Pupils in Grade 12 with matriculation certificates who met university entrance requirements in 2006¹⁶⁵

	Jewish	Arab
Entitled to a matriculation certificate	54.9%	46.3%
Met university entrance requirements	48.3%	34.4%

In fact, Arab students account for just 11.2% of all first degree (BA/BSc) students. This proportion has an inverse relationship to educational level: At the level of second degree, Arabs account for 6.1% of all students, and by third degree level, the percentage of Arab students falls to an average

¹⁵⁹ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.24.

¹⁶⁰ Hannan el-Sana and Ajaj Asif, “The Arab Bedouin Population in the Naqab: Economics and Employment,” The Naqab Institute for Peace and Development Strategies, 2007.

¹⁶¹ HCJ 2848/05, *Fatimah Abu Sabila (Ali) et al., v. The Ministry of Education, et al.* (decision issued 23 January 2007).

¹⁶² HCJ 7562/09, *Fatmeh Abu Sbeli, et al. v. The Ministry of Education, et al.* The state responded in December 2009 claiming that the process of obtaining planning permission for the school building was ongoing. Case pending.

¹⁶³ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.47.

¹⁶⁴ Israel’s Fifth Period Report to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/ISR/5, 21 October 2009, p.157, para. 366.

¹⁶⁵ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.25.

of 3.5% of all students.¹⁶⁶ Table 6 shows the falling percentages of Arab students at first, second and third degree level in four key subjects.

Table 6: University students by degree, field of study, and population group¹⁶⁷

Degree	Engineering and architecture		Sciences and mathematics		Medicine		Law	
	Jews	Arabs	Jews	Arabs	Jews	Arabs	Jews	Arabs
First degree	90.0%	6.0%	85.3%	9.5%	79.3%	19.7%	92.4%	6.7%
Second degree	91.6%	3.1%	92.9%	3.3%	86.6%	12.3%	94.8%	4.7%
Third degree	91.7%	2.5%	95.1%	2.1%	93.1%	4.1%	96.9%	3.1%

Arab citizens of Israel in academia

Arab academics are sorely underrepresented in the faculties of Israel's institutions of higher education, and are consequently marginalized in the production of knowledge in society. In 2007, Arabs accounted for as few as 1.2% of all academics employed by Israeli universities and colleges in tenured or tenure track positions, and received on average salaries worth 50% less than their Jewish counterparts.¹⁶⁸ Arab women are particularly underrepresented in higher education: it was not until 2008 that the first Arab woman was appointed to the position of professor by the Israeli Appointments Committee of the Higher Education Council.¹⁶⁹

Illiteracy rates

The average rate of illiteracy in Israel, at 4.6%, is considered relatively low.¹⁷⁰ In the UN's Human Development Report 2007/8,¹⁷¹ Israel was ranked 23rd among 177 countries in which the level of literacy was measured. However, a closer analysis of illiteracy in Israel according to gender and ethnicity indicates that certain population groups have higher percentages of illiteracy than the national average. Illiteracy is particularly prevalent among Arab women in Israel: in 2008, 13.4% of Arab women were considered illiterate, compared to 3.4% of Jewish women, 5.5% of Arab men and only 1.9% of Jewish men.¹⁷² Among Arab Bedouin women in the Naqab the rates are particularly high, standing at 13.2% among the 35-39 year-old age group, 31.7% among the 40-44 year-old age group, 61.4% among the 45-49 year-old age group, 53.5% among the 50-59 year-old age group, and 92.3% among the 60+ age group in 2007.¹⁷³

Measures to raise educational standards

The MOE's policies actually act to entrench the gaps between Arab and Jewish school children, as special programs to assist academically weak or gifted children are disproportionately awarded to Jewish schools. One of the main channels for the allocation of additional grants and benefits to

¹⁶⁶ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.52.

¹⁶⁷ Ibid.

¹⁶⁸ Adel Manna, *Kitab al-Mustaqbali al Arabi fi Israel*, 2nd Annual Book of Van Leer, 2007 (Arabic).

¹⁶⁹ Israel's Fifth Period Report to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/ISR/5, 21 October 2009, p.161, para. 374

¹⁷⁰ CBS, Statistical Abstract of Israel 2004, No. 55, Table 8.3.

¹⁷¹ UNDP, *Human Development Report 2007/2008, Fighting Climate Change: Human solidarity in a divided world*, available at: <http://hdr.undp.org/en/reports/global/hdr2007-2008/>

¹⁷² CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.3. Illiteracy among Arabs is concentrated in the 45+ age range. The definition of an illiterate person employed in these calculations is a person who has completed 0-4 years of schooling.

¹⁷³ The Galilee Society: The Arab National Society for Health Research and Services, *The Palestinians in Israel – Socio-Economic Survey 2007*, pp. 211-212.

towns, villages and their residents is the government's policy of designating certain areas as National Priority Areas, a classification that qualifies them for a host of lucrative benefits in several fields including education (see *Redistribution of Resources and Social Welfare*, above).

Another example is provided by the "Shahar" academic enrichment programs. The MOE has admitted before the Supreme Court that its "Shahar" programs have privileged Jewish schools to the detriment of Arab schools.¹⁷⁴ Shahar programs, instituted in the 1970s, were intended to assist academically weak school pupils from socio-economically disadvantaged backgrounds to reach a par with other pupils. In 2000, the Supreme Court confirmed a state commitment to allocate 20% of Shahar funds to Arab schools. Prior to this commitment, the MOE had not implemented the Shahar programs in any Arab schools, although their pupils were often in greatest need of extra educational assistance. The Supreme Court accepted the state's request that it increase implementation of the program in Arab schools on a gradual basis, thereby prolonging discrimination against them. As of 2010, the program has still not been implemented in any Arab schools.

Underinvestment in Arab education is most blatant in the Naqab, where Arab Bedouin schools often lack basic services and facilities including toilets, electricity, telephone and internet connections, and safe access roads, particularly in the unrecognized villages that have schools.¹⁷⁵ A further example is the funding for psychological counselors to Arab Bedouin and Jewish schools. Psychological counselors are appointed by the MOE and are primarily responsible for diagnosing and treating students with learning and developmental disabilities, providing suitable educational frameworks for students with special needs, and providing consultation to educators. Table 7, below, details the number of psychological counselors allocated to schools in selected (recognized) Bedouin and Jewish towns in the Naqab, compared to the number of required positions according to the MOE's own criteria. In June 2005, in response to a petition filed by Adalah that challenged the lack of psychological counselors in seven recognized Bedouin villages in the Naqab, the state acknowledged before the Supreme Court that the MOE had discriminated against schools in the villages in the appointment of psychological counselors.¹⁷⁶ No psychological counselors work in schools in the unrecognized villages.¹⁷⁷

Table 7: Allocation of psychological counselors in Jewish and Bedouin towns in the Naqab¹⁷⁸

Town (Jewish towns shown in grey)	No. of positions needed according to MOE criteria	No. of positions allocated	% of required positions allocated
Rahat	18.8	6.0	31.9
Ofakim	8.9	7.4	83.1
Houra	4.4	1.3	29.5
Dimona	12	9.2	76.6

¹⁷⁴ See H CJ 2814/07, *The Follow-Up Committee on Arab Education, et al. v. The Ministry of Education, et al*, submitted to the Supreme Court by Adalah in May 1997.

¹⁷⁵ See, e.g. Adalah's news update, *Adalah Petitions Supreme Court to Compel Connection of Two Arab Bedouin Schools in the Naqab (Negev) to the National Electricity Network*, 9 July 2009, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=09_07_10

¹⁷⁶ See H CJ 4177/04, *Yusef Abu-Abied, et al. v. The Ministry of Education, et al*. The state also informed the court that the MOE had committed to increase the number of positions from the beginning of the 2005 school year from 30% to 50% of the positions it is required to provide, to rise to 80% within two years. The state also committed itself to pursue a policy of affirmative action in education over the long term for the Arab Bedouin towns in the Naqab.

¹⁷⁷ Adalah demanded the appointment of psychological counselors in five Arab Bedouin schools in the unrecognized villages in the Naqab serving 3,650 students, none of which has such a position. On 1 July 2009, the Supreme Court affirmed the urgent need for such counselors and the need to resolve the problem. However, it was satisfied with the state's commitment to establish special educational courses to prepare counselors in order to overcome the shortage. See H CJ 3926/06, *Al-Sayed Abed El-Dayem, et al v. The Ministry of Education and The Abu Basma Regional Council* (decision delivered 1 July 2009).

¹⁷⁸ Data cited in a letter from the Ministry of Education to Adalah, annex 4, H CJ 3926/06, *Al-Sayed Abed El-Dayem et al v. The Ministry of Education and the Abu Basma Regional Council*.

The Arabic language

Arabic and Hebrew are official languages in Israel. This status was established by Article 82 of *The Palestine Order-in-Council – 1922*, which was subsequently adopted into Israeli law and remains valid today.¹⁷⁹ It was further reinforced by the Knesset and the Israeli government in several statutes and regulations.¹⁸⁰ Arabic's official-language status is also evident in the Declaration of Independence. Furthermore, Arabs in Israel are a national minority, and the state is therefore obliged to protect the rights of members of this minority, together with their fellow members, to culture, religion and language, in line with article 27 of the International Covenant on Civil and Political Rights.

In practice, however, Arabic-speakers in Israel have little opportunities to enjoy and use their language after completing their primary and secondary schooling outside the private sphere and within their own community. As a result of government policy, the status of Arabic is vastly inferior to that of Hebrew in terms of the resources dedicated to its use and there is clear inequality in the opportunities granted to Arabic-speakers to enjoy and use their language in official and public fora. The minimal use of Arabic in the public sphere and by public institutions stands in stark contrast to its official status.

For example, over 200 major principle decisions issued by the Supreme Court have been translated to English and have been published on the court's website along with the original Hebrew decisions. Although the majority of these decisions are relevant to Palestinian citizens of Israel and Palestinians in the OPT, none of them has been translated to Arabic. In addition, many official forms are not available in Arabic. Ministries routinely refuse to accept official documents in Arabic, including for issues of personal status that are dealt with by the religious courts; many of the relevant forms are provided by the *Shari'a* (Islamic) court system in Arabic only. Individuals are often required to provide notarized translations of the documents in Hebrew, incurring significant expenses.

In July 2009, the Transport Minister made a decision to Hebraize all road signs in Israel, and remove the Arabic names of towns and villages from the signs and replace them with the Hebrew names of the places using Arabic letters. For example, "Jerusalem" would become "Yerushalaim" in Hebrew, Arabic and English, and "Al-Quds" (the Arabic name for Jerusalem) would be erased from road signs.¹⁸¹ The decision is contrary to an Israeli Supreme Court judgment delivered in 2002 that obliges municipalities in mixed Arab-Jewish cities to add Arabic to the traffic, warning and other informational signs in areas under their jurisdiction.¹⁸² For Palestinian citizens of Israel, the Arabic name of the town is an integral part of their culture. Furthermore, since Arabic is an official language, Israel has a duty to maintain and develop the language.¹⁸³ Adalah recently received reports that new or replaced road signs, signs denoting

¹⁷⁹ This article was amended through Section 15B of *The Law and Government Ordinance – 1948* to eliminate English as an official language, as stipulated by Article 82 of *The Palestine Order-in-Council – 1922*, leaving Arabic and Hebrew as Israel's two official languages.

¹⁸⁰ See also the Supreme Court's decision in H CJ 4112/99, *Adalah, et al. v. The Municipality of Tel Aviv-Jaffa, et al.*, delivered on 25 July 2002, Justice Dalia Dorner's decision. This case, brought by Adalah together with the Association for Civil Rights in Israel, concerned the lack of Arabic text on traffic, warning and other informational signs in the mixed Arab-Jewish cities of Tel Aviv-Jaffa, Ramle, Lod, Akka (Acre), and Natseret Illit, and demanded that the responsible municipalities amend such signs accordingly.

¹⁸¹ On 15 July 2009, Adalah sent an urgent letter to the Attorney General demanding the cancellation of the Transport Minister's decision.

¹⁸² H.C. 4112/99, *Adalah, et al. v. The Municipality of Tel Aviv-Jaffa, et al* (decision delivered 25 July 2002). The petition was filed in 1999 by Adalah and the Association for Civil Rights in Israel (ACRI).

¹⁸³ On 3 September 2009, Adalah received a letter from the Attorney General's Office (AG) stating that the decision of the Minister of Transport to Hebraize all road signs in Israel was not final, and that the issue remains under consideration by a sub-committee (on file with Adalah). No further update has since been received.

street names, signs for public institutions, etc. in the mixed city of Natzaret Illit had been erected that display Hebrew and English only, in violation of the Supreme Court's decision.¹⁸⁴

Health

The National Health Insurance Law – 1995 requires the healthcare system to provide equitable, high quality health services to all residents of Israel. However, Palestinian citizens of Israel face numerous barriers that prevent them from exercising their right to the highest sustainable standard of health. An important measure of the provision of health care is the lack of available clinics and hospitals in Arab towns and villages. Nazareth is the only Arab town with hospitals; the three hospitals that operate in the town are church-run and church-affiliated and are not state hospitals. Palestinian citizens of Israel living in all other towns and villages in the state must go to hospitals located in Jewish or mixed cities. The limited provision of public transportation to and from Arab towns and villages exacerbates the problem. The problem of access to healthcare and mobility is particularly acute in the Naqab, where unrecognized villages lacking onsite health facilities are often located at a great distance from main roads, and where most women do not drive.¹⁸⁵ Once they have traveled to medical service provision sites, Palestinian citizens of Israel may face a language barrier since most health service providers speak only Hebrew. The young, the elderly and patients with communication-related medical problems are particularly affected, since appropriate medical care depends on clear communication between doctor and patient.

Life expectancy/mortality rates

Arab citizens of Israel can expect to live shorter lives than Jewish citizens. According to government statistics, in 2008 the average life expectancy of Arab men in Israel was 75.9 years, four years less than the figure for Jewish men (79.9 years). Similarly, in 2008 Arab women in Israel had an average life expectancy of 79.7 years, 3.6 years less than the figure for Jewish women (83.3 years).¹⁸⁶ Accordingly, mortality rates among the Arab minority outstrip those among Jews in Israel: in 2007, the standardized rate of mortality among Arab men in Israel was 5.6 deaths per 1,000 persons, and 4.1 deaths per 1,000 Arab women; the corresponding figure for Jewish men during the same year was significantly lower at 3.9 deaths per 1,000 persons, and 2.8 per 1,000 Jewish women.¹⁸⁷ These gaps become particularly wide after the age of 60. For example, in 2006 the mortality rate among Arab men aged 60-64 was almost twice the figure among Jewish men (16.1 versus 8.7 deaths per 1,000 persons).¹⁸⁸

Infant mortality rates

According to official data, in 2008 infant mortality rates among the Jewish majority in Israel stood at 2.9 per 1,000 live births. While infant mortality rates are falling in Israel as a whole over time, in the same year the average infant mortality rate among the Arab minority was more than double that among the Jewish majority, at 6.5 per 1,000 live births.¹⁸⁹ In the Naqab, the rate is even

¹⁸⁴ On 19 November 2009, Adalah wrote to the Municipality of Natzaret Illit and the AG demanding the implementation of the Supreme Court's 2002 decision in Natzaret Illit. The AG replied on 29 November 2009, stating that they would check the answer and revert to Adalah. No further response has been received. The letters are on file with Adalah.

¹⁸⁵ According to a survey conducted by the "Women Promote Health" group and PHR-Israel, 50% of women from unrecognized villages surveyed reported that they go to health clinics by foot, and that they do not have another way to get there. See, Physicians for Human Rights-Israel, *Israel's Step Children: About the lack of pediatrics in the Unrecognized Villages in the Negev and its Ramifications*, November 2008. Position paper available at: http://www.phr.org.il/uploaded/articlefile_1237372920593.pdf

¹⁸⁶ CBS, *Israel in Figures 2009*, p.11 (English), available at: http://www.cbs.gov.il/publications/isr_in_n09e.pdf

¹⁸⁷ CBS, *The Arab Population in Israel 2008*, p. 3.

¹⁸⁸ CBS, *Statistical Abstract of Israel 2008*, No. 59, Table 3.27.

¹⁸⁹ CBS, *Israel in Figures 2009*, p. 11 (English).

higher, at 15.0 per 1,000 live births in 2005.¹⁹⁰ The data also indicates an *upward trend* in infant mortality rates among the Arab Bedouin population in the Naqab, which stood at 13.3 deaths per 1,000 live births in 2003.¹⁹¹

Health services in the unrecognized villages in the Naqab

The health situation is most critical in the unrecognized villages in the Naqab, where the provision of health services is either limited or non-existent. There are only twelve clinics in the unrecognized villages. These clinics lack specialized medical professionals as well as pharmacies. Furthermore the staff often does not speak Arabic.¹⁹² Together, these services provide health care to just 20% of the residents of the unrecognized villages.¹⁹³ Eleven of these health clinics are affiliated to Kupat Holim Clalit (one of the four major health funds in Israel), on which thousands of people rely for health care. However, not one of these clinics employs pediatricians or gynecologists. In response to inquiries made by Adalah and Physicians for Human Rights-Israel, the Ministry of Health stated in May 2009 that the family doctors that currently work on the clinics are sufficient and that the villagers can travel to clinics in neighboring Jewish towns to receive pediatric or gynecological care.¹⁹⁴

Case Study: Closure of “mother and child” clinics

In October 2009, the Ministry of Health (MOH) closed down three “mother and child” clinics that operate in the unrecognized villages of Qasr el-Ser, Abu Tlul and Wadi el-Niam in the Naqab. The clinics specialize in post-natal care and are part of a group of six clinics established in the unrecognized villages following a Supreme Court petition submitted by Adalah in 1997.¹⁹⁵ The ministry claimed it had closed the clinics due to a lack of nurses and doctors willing to work in them and suggested that the women and children receive post-natal services in Beer el-Sabe (Beer Sheva) and elsewhere in the Naqab. However, the lack of public transportation linking the unrecognized villages, the lack of private car transport and other factors prevents many women from accessing clinics outside their villages. The closure of the clinics therefore poses a danger the lives of thousands of pregnant women, mothers and children living in these villages. On 16 December 2009, Adalah filed a petition to the Supreme Court against the MOH to demand the cancellation of its decision to close the clinics. One of the petitioners is a woman from Qasr el-Ser and mother of eight children, the youngest of whom is one year and three months old; her husband died five months after the birth of their youngest child. She has been living in an extremely difficult economic situation following the death of her husband. She does not own a car and is not able to pay for a car to travel to the town of Dimona for her child to receive the necessary immunizations, exposing him to danger. Adalah argued that the high infant mortality rates among the Arab Bedouin increased the importance of accessible mother and child clinics, and that the closures violates *The*

¹⁹⁰ Israel's Third Periodic Report to the UN Human Rights Committee, CCPR/C/ISR/3, 21 November 2008, para. 571.

¹⁹¹ I. Shoham Vardi, *The Death of Bedouin Babies in the Negev, 1990-2002*, Beer Sheva: Ben-Gurion University; unpublished conference paper (Hebrew). See also, Physicians for Human Rights-Israel, *No Man's Land: Health in the Unrecognized Villages of the Negev*, July 2003.

¹⁹² Physicians for Human Rights-Israel, *Israel's Step Children: About the lack of pediatrics in the Unrecognized Villages in the Negev and its Ramifications*, November 2008.

¹⁹³ Ibid.

¹⁹⁴ Letter on file with Adalah.

¹⁹⁵ HCJ 7115/97, *Adalah, et al. v. Ministry of Health, et al.* The Ministry of Health evaded its commitment to establish the clinics and the court's decision for several years, eventually setting them up in 2000 and 2001 following further pressure from Adalah and others.

National Health Insurance Law – 1995, which obliges the provision of health services on an equal basis to all.¹⁹⁶ As a result of Adalah’s petition, the MOH announced on 11 August 2010 that two of the clinics—in Qasr el-Ser and Abu Tlul—will be reopened. The Wadi al-Nam clinic remains closed.

The inadequate provision of health services in the unrecognized and newly-recognized villages is a deliberate policy of neglect on the part of the state, which ultimately seeks to evacuate the unrecognized villages and relocate their residents, in part by creating intolerable conditions. Hence it is precisely in the unrecognized and newly-recognized villages, where the need for health services is at its greatest, that provision is at its most inadequate.

Political Participation

Palestinians citizens have lower levels of access and participation than Jewish citizens in all spheres of public life and decision-making, from the judiciary, the legislature, and government to the civil service. As a result they have limited access to decision-making processes and centers of power, and consequently a diminished ability to redress the inequality and discrimination they face in all spheres of life. A recent poll revealed that as much as 86% of the Jewish Israeli public believes that decisions critical to the state should be taken by a Jewish majority.¹⁹⁷ In addition, the state often works to remove political acts and expression by Palestinians citizens from the sphere of legitimate action by preventing the full and equal exercise of freedom of expression and speech, including by means of force, arrest and prosecution.

The judiciary

In the history of the Supreme Court, there have been only two Arab male justices. One Arab justice, Abd-er-Rahman Zoabi, served on the Israeli Supreme Court as a temporary justice for nine months in 1999, making him the first Arab citizen of Israel to serve on the country’s highest court. Justice Salim Joubran has served on the Supreme Court since 2003, and was appointed as a permanent member in May 2004. He is currently serving on the court as the only Arab justice out of a total of 15 Supreme Court justices. No Arab woman has ever served on the Israeli Supreme Court, although Arab women are relatively well-represented among the legal profession. At the district court level, Arab judges make up just 4.9% of all district court judges—7 out of a total of 143 judges—7.7% of magistrate’s court judges—29 of a total of 373—and 3.6% of all labor court judges—2 of a total of 55 judges.¹⁹⁸

The Knesset

Arab parties currently hold 9% (11 seats) of the total 120 seats available in the Knesset, the Israeli parliament.¹⁹⁹ There is just one Arab woman MK Haneen Zoabi, who is the first Arab woman ever

¹⁹⁶ H CJ 10054/09, *Wadad El-Hawashly, et al. v. The Ministry of Health*. See Adalah, “Adalah Petitions Supreme Court against Health Ministry Demanding Re-Opening of Mother and Child Clinics in Three Arab Bedouin Unrecognized Villages in the Naqab,” 16 December 2009, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=09_12_16

¹⁹⁷ Israel Democracy Institute, *Auditing Israeli Democracy – 2010*, (English) p. v.

¹⁹⁸ Sikkuy, “Representation of Arab citizens in the justice system in Israel, 2008” (Hebrew), available at: www.sikkuy.org.il/docs/courts2008.doc. Perhaps as a result of the lack of representation, as many as 40% of Arab citizens of Israel stated in 2009 that they had no trust in the judiciary. Prof. Sammy Smooha, “Index of Jewish-Arab Relations in Israel – 2009: The lost decade of Arab-Jewish relations in Israel,” The University of Haifa, 25 May 2010, p. 9 (Hebrew).

¹⁹⁹ These parties are Ra’am-Ta’al (The United Arab List and the Arab Movement for Change), Tajammoa/Balad (The National Democratic Assembly) and Al-Jahba/Hadash (The Democratic Front for Peace and Equality). While al-Jahba is defined as a joint Arab-Jewish party, it is the largest parliamentary political party in the Arab community in Israel and the vast majority of its members are Arab.

to have served in the Knesset on behalf of an Arab political party.²⁰⁰ In the history of the Knesset, there have only been two other Arab women MKs.²⁰¹

The government

Since 1948, no Arab party has been included in a ruling government coalition. Their exclusion from ruling coalitions is due in part to the unwillingness of other coalition members to invite Arab parties to join them on the basis of their electoral platforms, but also due to objections on the part of the Arab parties to the policies of these coalitions. Only a handful of few Arab citizens have been appointed to ministerial positions in the history of the state: in August 1999 Nawaf Massalha was appointed Deputy Minister of Foreign Affairs, Salah Tarif was appointed minister without portfolio in 2001, and Raleb Majadele Minister for Science and Technology in January 2007.

The rights to elect and be elected

Section 7A of *The Basic Law: The Knesset*, entitled “Prevention of participation in the elections,” states that the Central Elections Committee (CEC) may disqualify a candidate or a political party list from running in the Knesset elections if the goals or actions of the candidate or party (i) deny the existence of the State of Israel as a Jewish and democratic state; (ii) incite to racism; or (iii) [offer] support of armed struggle, of an enemy state or of a terrorist organization against the State of Israel.²⁰² This latter provision—“support of armed struggle”—was added by a 2002 amendment to the law.

Recent election cycles have witnessed attempts by the Attorney General (AG) (in 2003) and right-wing political parties and MKs to disqualify Arab parties and individual MKs from the Knesset, aimed at severely limiting their political voice in the legislature and entrenching their political marginalization. In the 2003 round of Knesset elections, the AG and several right-wing MKs launched attempts to disqualify some or all of the Arab MKs and political parties from running pursuant to Section 7A of *The Basic Law: The Knesset*. The majority of CEC members in 2003 voted to ban the National Democratic Assembly (NDA)-Balad list, former MK Dr. Azmi Bishara and Dr. Ahmed Tibi from running in the elections, based on their political or ideological positions.

Adalah represented all of the Arab political leaders and political party lists before the CEC in 2003, and subsequently represented the NDA, Dr. Bishara and MK Tibi before the Supreme Court. An expanded 11-justice panel of the Supreme Court overturned the decisions of the CEC on 9 January 2003.²⁰³

Again, in the 2006 Knesset elections, right-wing MKs and the Likud Party submitted motions for disqualification against MK Sheikh Sarsour and the United Arab List (UAL) to the Central Elections Committee (CEC). The motions, filed pursuant to Section 7A of the *Basic Law: The Knesset*, alleged that both had denied that Israel is a “Jewish and democratic state” and made statements in “support of armed struggle of an enemy state or of a terrorist organization against the State of Israel.” Adalah represented MK Sarsour and the UAL before the CEC. At a CEC hearing in February 2006, Adalah argued that the motions should be rejected as they lack a factual basis and rely on inaccurate media reports. Later in February 2006, the CEC voted 18 to

²⁰⁰ See the website of the Knesset, *Knesset Members by Parliamentary Group*, at: http://www.knesset.gov.il/mk/eng/mkindex_current_eng.asp?view=1

²⁰¹ Ms. Hussniya Jabara, who served as an elected representative of the Meretz Party from 1999 to 2003, and Ms. Nadia Hilou, who served as a as an elected representative of the Labor Party between 2006 and 2009.

²⁰² Section 7(A)(1) and (2) of the Basic Law: The Knesset. Section 7(A)(3) adds further stipulates incitement to racism as a basis for banning a political party list from Knesset elections.

²⁰³ Election Appeal 131/03, *Balad – The National Democratic Assembly v. the Central Elections Committee*; Election Confirmation 50/03, *Central Elections Committee v. Azmi Bishara*; Election Confirmation 11280/02, *Central Elections Committee v. Ahmed Tibi*.

16 against the disqualification motions and thus Sheikh Sarsour and the UAL were permitted to run in the elections.²⁰⁴

Similar motions were submitted in the run-up to the February 2009 elections. Once again, the CEC voted to ban Arab parties from running in the 2009 Knesset elections, namely the National Democratic Assembly (NDA)-Balad and the United Arab List and Arab Movement for Change (UALAMC). The disqualification motions centered on the parties' political platforms and statements by their leaders demanding, e.g., the establishment of a "state for all its citizens" or allegations of supporting terrorism by assisting travel to "enemy states" and "enemy entities". In response to the CEC's decision to ban the two parties, which was supported by the Likud, Labor and Kadima, Adalah filed an appeal to the Supreme Court arguing that banning the parties from standing for election would effectively deny the Arab minority an effective vote and harm their constitutional rights to elect their own representatives and run for elected political office. In January 2009, an expanded nine-justice panel of the Supreme Court overturned the CEC's decisions to ban the parties.²⁰⁵

A series of other laws institute a range of restrictions on freedom of movement, freedom of speech, and access to the political system, which are used predominantly to curb the political freedoms of Palestinian citizens and their elected representatives. They include *The Law of Political Parties (1992) (Amendment 12) – 2002* which sets forth various ideological limitations on the registration rights of political parties, similar to Section 7(A) of *The Basic Law: The Knesset*. These limitations include the provision that a political party that wishes to run for the Knesset elections will not be registered if its goals or actions deny the existence of the State of Israel as a Jewish and democratic state and directly or indirectly "support armed struggle of an enemy state or of a terror organization, against the State of Israel."²⁰⁶

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 it was formulated in response to recent visits by Arab MKs to Arab states.²⁰⁷ The amendment constitutes a flagrant violation of the constitutional right to be elected and in practice applies almost exclusively to Arab MKs. The amendment was preceded by an *Order for the Extension of the Validity of Emergency Regulations (Foreign Travel) (1948) (Amendment 7) – 2002*, which removed the exemption for MKs to lawfully travel to "enemy states," as defined by Israeli law.

A currently proposed amendment to *The Basic Law: The Government – Loyalty Oath*²⁰⁸ 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. Two similar recently-proposed bills seek to impose loyalty oaths on MKs. Both bills seek to amend *The Basic Law: The Knesset*. The first²⁰⁹ requires all MKs to make an oath to the state as a "Jewish, Zionist and democratic state" and to the values

²⁰⁴ See Adalah, *Central Elections Committee Votes against Attempt to Disqualify Leader of United Arab List from Upcoming Israeli Parliamentary Elections*, 8 March 2006, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=06_03_08-1

²⁰⁵ Election Appeal HCJ 561/09, *The National Democratic Assembly and the United Arab List and Arab Movement for Change v. The Central Elections Committee and the Attorney General*.

²⁰⁶ Article 5 of the law.

²⁰⁷ The law does not apply retroactively.

²⁰⁸ Legislative bill no. 5/18, introduced on 1 April 2009.

²⁰⁹ Legislative bill no. 7/18, introduced on 1 April 2009.

and symbols of the state. The second²¹⁰ requires MKs to swear allegiance to the State of Israel as a “Jewish and democratic state.” The law seeks to consolidate the provisions of *The Law of Election (1969) (Amendment 46) – 2002*, which states that a candidate who wishes to run for election to the Knesset must declare as follows: “I commit myself to uphold the loyalty for the State of Israel and to avoid acting in contradiction with Section 7(A) of *The Basic Law: The Knesset*.”²¹¹

These and other laws are steadily shrinking the space for political action available to Palestinian citizens, and further alienating them from the institutions of the state, and the political process in general. One of the consequences and indicators of this alienation has been growing disillusionment among Arab voters with the electoral process. According to the Israel Democracy Institute, Arab citizens are the group most detached from Israeli politics, with just 39% attesting to an interest in politics.²¹² During the first fifty years of the state, Arab voter participation remained relatively high, consistently reaching rates of over 70%. Since the 1999 general elections, however, there has been a marked drop in voter turnout rates among Arab citizens. A low point was reached in the 2001 prime ministerial elections, when Arab voters staged a mass boycott in protest against the events of October 2000 (see below), resulting in a voter participation rate of just 18%.²¹³ In the 2006 elections, the rate of Arab voter turn-out remained low at just over 50% of eligible Arab voters²¹⁴ compared to 63.5% among all voters in 2006.²¹⁵ In 2009, the voter turnout rate was 64.7%²¹⁶ overall and around 53% among Arab voters.²¹⁷

In addition, these laws and the repeated attempts to disqualify Arab parties and candidates from running in successive rounds of Knesset elections have the effect of delegitimizing the Arab voice in the Israeli political process, with around a third (31%) of Jewish citizens expressing their agreement with the statement that Arab citizens should be denied the right to vote and to be elected to the Knesset.²¹⁸ A poll conducted in 2010 found that Jewish Israeli youth are even more opposed to the participation of Arab citizens in the Knesset: according to the poll, more than half of Jewish teenagers would deny Arabs the right to be elected to the Knesset.²¹⁹ Only a minority of the Jewish public thinks that Arab ministers should join the government (33% of Israel-born Israelis and 23% of immigrants) or that Arab citizens should participate in “decisions fateful to the country”.²²⁰

The fair and proportionate participation of Palestinians citizens of Israel in the political processes of the state is a prerequisite for the overall stability and cohesion of Israeli society, and for the proper functioning and governance of the state. However, Israeli laws and government policies restrict the scope of political participation by the Palestinians minority, thereby cementing their vulnerable and marginalized status and leaving them outside the power-structures of the state. Declining voter turnout rates among the Arab population in Israel indicate that Arab citizens are

²¹⁰ Legislative bill no. 226/18, introduced on 1 April 2009.

²¹¹ Section 57 of the law.

²¹² Israel Democracy Institute, 2009 Israeli Democracy Index, (English) p. 53.

²¹³ The Israel Democracy Institute, *Participation, Abstention and Boycott: Trends in Arab Voter Turnout in Israeli Elections*, 22 April 2009, available at:

<http://www.idi.org.il/sites/english/ResearchAndPrograms/elections09/Pages/ArabVoterTurnout.aspx>

²¹⁴ University of Haifa Division of Communication and Media Relations, Press Release 19 May 2009, 2008 Index of Arab-Jewish Relations in Israel, University of Haifa.

²¹⁵ CBS, Statistics Abstract of Israel 2008, No. 59, Table 10.1.

²¹⁶ CBS, Statistical Abstract of Israel 2009, No. 60, Table 10.1

²¹⁷ The Israel Democracy Institute, *Participation, Abstention and Boycott: Trends in Arab Voter Turnout in Israeli Elections*, 22 April 2009.

²¹⁸ Israel Democracy Institute, 2009 Israeli Democracy Index, (English) p.65.

²¹⁹ Poll commissioned by the Maagar Mochot research institute, reported in Or Kashti, “Poll: Half of Israeli high schoolers oppose equal rights for Arabs,” *Haaretz* (English edition), 11 March 2010.

²²⁰ The Israel Democracy Institute, *Participation, Abstention and Boycott: Trends in Arab Voter Turnout in Israeli Elections*, 22 April 2009, pp. 66, 87.

not fully exercising their civic rights and citizenship, and are not playing an active, constructive role in shaping the political life of the country through the electoral process.

The right to demonstrate

The police routinely use force and arrest against Arab citizens of Israel as a deterrent against demonstrating in order to silence voices of protest, instead of fulfilling the duty of the police to maintain order and ensure freedom of political expression, even in times of war and social, political and national upheaval, when the views of many Arab citizens differ substantially from those of the Jewish majority. Detained protestors are initially held in custody and often denied bail or release under *The Criminal Procedure (Powers of Enforcement, Detentions) Law – 1996*. The reason usually cited by the authorities is that, if released, they could endanger state security or public safety, disrupt the investigation or influence witnesses. If the case proceeds to prosecution, suspects are generally charged under the Penal Code on charges such as taking part in a prohibited assembly (Article 151) and rioting (Article 152). Adalah has received many complaints over the years from protestors who were beaten by police officers and then themselves charged with the crime of assaulting a police officer (Articles 273/274), and/or with interrupting police officers in the course of carrying out their duties (Article 275).

Case Study: The October 2000 protest killings

In October 2000, Israeli police officers killed 13 unarmed Palestinian citizens of Israel during demonstrations staged to protest against Israel's brutal policies in the OPT. During the demonstrations, Israeli police used live ammunition, rubber-coated steel bullets and tear gas against the protestors. Many protestors who were killed were shot in the head or chest by snipers. As a result of the lethal force employed by the police to quash the demonstrations, hundreds of Arab citizens were also injured and more than 1,000 were arrested and detained. Contrary to the recommendations of the official Or Commission of Inquiry in 2003, in January 2008, the Attorney General decided to close the files and not to issue a single indictment against anyone responsible for the killings.²²¹ Until today, ten years after the killings, no police officer, commander or political leader has been held accountable for the deaths.

The most recent large-scale protests by Palestinian citizens of Israel were mounted around the country against the Israeli military operation "Cast Lead" in Gaza (27 December 2008 to 18 January 2009).²²² The demonstrations, staged mainly by Palestinian citizens, were cracked down on by the police, who used arrest as means of deterring protesters, with the support of the State Prosecutor's Office and the courts. Anti-war protestors were subjected to disproportionate and systematic mass arrests, primarily due to their mere presence at the scene. Minors were highly represented among the detainees: of the 832 demonstrators detained during Operation Cast Lead, 34% were minors.²²³ 80% of all detainees were held in custody without bond until the end of proceedings against them, an extreme measure from which minors were not spared: 54% of all detainees held in custody until end of the proceedings against them were minors.²²⁴

²²¹ Adalah represents the victims' families and continues to demand indictments in the October 2000 killings cases.

See Adalah, *Special Report on the October 2000 Killings*, available at: <http://adalah.org/eng/october2000.php>

²²² According to a poll conducted during the war by the *Haaretz* newspaper, despite images from Gaza depicting massive destruction and a large number of wounded and killed Palestinians, 82% of the public believed that Israel has not "gone too far" in the war. *Haaretz*, "Poll shows most Israelis back IDF action in Gaza," 15 January 2009.

²²³ Adalah, *Prohibited Protest: Law enforcement authorities restrict the freedom of expression of protestors against the military offensive in Gaza*, November 2009 (Hebrew). The English executive summary of the report is available at: http://www.adalah.org/features/prisoners/GAZA_REPORT_ENGLISH_FOR_THE_NEWSLETTER.pdf

²²⁴ *Ibid.* Contrary to domestic and international law, and with the backing of the Supreme Court, the treatment of minors was identical to that of adults.

Significantly, *not one* detainee from the Tel Aviv District was remanded until the end of proceedings against them, the district where the majority of Jewish protestors against the war were detained. By contrast *all* detainees in the Northern District were detained until the end of proceedings against them, and 94% in the Jerusalem District, where almost all protestors were Arabs.²²⁵ The State Prosecutor's Office and police appealed every decision to release an Arab detainee from detention and won every appeal they submitted.²²⁶ In issuing indictments against the detainees, the State Prosecutor's Office and police presented all protest events, regardless of their character, as a threat to the existence or security of the state. The majority of indictments were issued for participating in prohibited gatherings, disturbing the peace and attacking a police officer. In addition, new grounds for arrests, such as "the protests are detrimental to the public morale," were used unhesitatingly by the police.²²⁷ The courts, in considering the charges before them, abandoned the basic principle of individual examination in criminal cases, as it did during the October 2000 demonstrations, preferring the wholesale arrest of suspects, claiming "offenses specific to the times" and "no change has yet occurred in respect thereof".²²⁸

According to testimonies, unarmed demonstrators who participated in peaceful protests against the War on Gaza encountered serious police violence. In many areas where demonstrations were held, the police dispersed demonstrators by force on the pretext that they were participating in a forbidden gathering, often inflicting severe injuries on demonstrators, some of whom were subsequently hospitalized.²²⁹ There is little accountability for such victims of police violence: according to official statistics, of a total of 5,613 complaints against the unlawful use of force by police officers investigated between 2001 and 2004, only 230 (4%) resulted in criminal proceedings.²³⁰ The information does not detail how many of these proceedings resulted in convictions or any criminal penalties imposed.²³¹

A further attempt to reduce the space allowed for protest by Palestinians citizens of Israel was mounted by the General Security Services (GSS), which interrogated dozens of Palestinian political leaders and activists in Israel during the 2008/2009 war on Gaza regarding their political activities and threatened to prosecute them if they did not halt them. Political leaders were threatened with being held criminally accountable for any legal violation by any member of their party or movement.²³² The harassment of Palestinian political leaders and activists in Israel by the GSS was backed by the Attorney General, who argued that its method of questioning and threats issued had been necessary to calm the situation.²³³

²²⁵ Ibid.

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ Ibid.

²²⁹ As was the case, e.g., with the protests held on New Year's Day 2009 at Haifa University, on Ben-Gurion Boulevard in Haifa, Tel Aviv University, and Ben-Gurion University in Beer Sheva (Beer el-Sabe).

²³⁰ Third Periodic Report of Israel to the Human Rights Committee, CCPR/C/ISR/3, 21 November 2008, para. 200.

²³¹ The Ministry of Justice Police Investigation Unit (Mahash) reviews the majority of complaints brought against police for the unlawful use of force by police officers. It is not an independent body. The majority of investigators within Mahash are police employees working on a temporary basis within the unit. The UN Human Rights Committee noted its concern at the lack of independence of police investigators in its recent Concluding Observations on Israel. See Concluding Observations of the Human Rights Committee – Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 12.

²³² Adalah sent an urgent letter to the Attorney General demanding that he prohibit the GSS from making these threats, arguing that they infringed the right of Arab citizens to organize, demonstrate and express their opinion and that they constitute an attempt by the GSS to interfere in Arab political activities in Israel. For more information see, Adalah, *Adalah to AG: Summoning Political Activists to GSS Investigation is an Attempt to Frighten Them from Participating in Demonstrations of Solidarity with Gaza*, 2 January 2009, available at:

http://www.adalah.org/eng/pressreleases/pr.php?file=09_1_2_1

²³³ Adalah, *Prohibited Protest*, 2009.

The criminalization of political activity

The criminal justice system is regularly used as a means of delegitimizing political acts and expression by Palestinian citizens. Along with ordinary citizens and political activists, Arab political leaders have been indicted for activities and speech critical to state policy that falls within the scope of their work as an elected political representative.²³⁴ Recent cases include:

- In November 2009, the Attorney General indicted Arab MK Mohammed Barakeh, the leader of the Democratic Front for Peace and Equality (“al-Jabha” or “Hadash”) in relation to four separate incidents that occurred at demonstrations over the course of the last three years. The demonstrations in question were peaceful protests against the Israeli Separation Wall being constructed in the West Bank, the Second Lebanon War of 2006, and the lack of accountability for the October 2000 killings. Mr. Barakeh’s participation in these demonstrations falls within his role as an MK and political leader of the Arab minority in Israel. MK Barakeh, who has attended hundreds of demonstrations at which he mediated between protesters and the police, took a leading role in mediating with the police or the military on behalf of protestors and in some instances was attacked by the police and military. Police officers later submitted false complaints against him for assault, which form the basis of the charges against him. The evidence on which the indictment is based has been completely refuted by MK Barakeh and is insufficient to convict him; it simply seeks to criminalize his legitimate political activities as an MK and undermine the political participation of the Arab minority in Israel as a whole.²³⁵
- The Knesset House Committee voted to strip the parliamentary immunity of Arab MK Sa’id Naffaa of the Tajammaa/Balad political party (National Democratic Assembly) on 26 January 2010. The move paved the way for the Attorney General to indict him criminally for various political offenses surrounding a visit he made to Syria in September 2007 as the part of a delegation of Druze making a pilgrimage to Druze holy sites in Syria, considered an “enemy state” under Israeli law. MK Naffaa arranged for a group of 280 Druze religious clerics to make a pilgrimage to holy sites in Syria after they were repeatedly refused a permit by the Interior Minister. MK Naffaa argues that the clerics were unfairly and arbitrarily denied their religious freedom. He is also accused of contact with a foreign agent. According to one of his assistants, who was interrogated by the GSS, MK Naffaa discussed the feud between Fatah and Hamas with Talal Naji, a Syrian leader of the Popular Front for the Liberation of Palestine), and attempted to meet with Hamas leader Khaled Meshal in Damascus. MK Naffaa denies meeting either man. MK Naffaa maintains that his visit was entirely political in nature and that the Knesset’s actions seek to prevent him from fulfilling his role as an MK.²³⁶ Adalah has learned that MK Naffaa has been indicted.²³⁷

²³⁴ Adalah, *Briefing Paper: Restrictions on human rights organizations and the legitimate activities of Arab political leaders in Israel*, 23 June 2010, available at: <http://www.adalah.org/newsletter/eng/jun10/docs/bp.pdf>

²³⁵ Adalah is representing MK Barakeh. The first hearing on the indictment was held on 10 March 2010 but the trial proceedings remain on hold following a Supreme Court petition submitted by Adalah in August 2010 against the joinder of the four offences. Adalah argued that the joinder stood to substantially harm the legal defense of MK Barakeh and undermine his rights to parliamentary immunity and a fair trial. For more information, see Adalah, *The Political Trial of MK Mohammed Barakeh Opens before Tel Aviv Magistrates’ Court*, 11 March 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=11_03_10

²³⁶ Adalah represented MK Naffaa at a hearing held before the AG and senior officials from the State Prosecutor’s Office in March 2009. The State Prosecutor recently informed Adalah that MK Naffaa has been indicted. See, Adalah, “Knesset Committee strips Arab MK Sa’id Naffaa of his parliamentary immunity; Attorney General to criminally indict him for political offenses surrounding his visit to Syria; Adalah to represent MK Naffaa,” 28 January 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=28_01_10

²³⁷ See Adalah, *Knesset Committee strips Arab MK Sa’id Naffaa of his parliamentary immunity; Attorney General to criminally indict him for political offenses surrounding his visit to Syria; Adalah to represent MK Naffaa*, 28 January 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=28_01_10

- The first case in which an indictment was filed against an MK for political speech was that against former MK Dr. Azmi Bishara, then-head of the National Democratic Assembly (NDA-Balad) party. Dr. Bishara was charged under *The Prevention of Terrorism Ordinance – 1948* with two counts of allegedly “supporting a terrorist organization,” namely Hezbollah. In the two speeches, Dr. Bishara analyzed the factors that led to the end of the Israeli occupation of South Lebanon and spoke about the realities of the Israeli occupation of the OPT and the right to resist it. He was also charged under *The Emergency Regulations (Foreign Travel) – 1948* for organizing a series of visits for elderly Palestinian citizens of Israel to travel to Syria to visit refugee relatives. The indictments followed a vote to strip MK Bishara of his parliamentary immunity, which protected him from indictment, by the Knesset in November 2001, a move as then unprecedented in Israeli politics. Adalah represented MK Bishara in the criminal indictments filed against him. The Magistrates’ Court in Natseret Illit decided unanimously to dismiss the criminal charges against him for the Syria visits case in April 2003. In November 2003, the Nazareth Magistrates’ Court decided not to dismiss the indictments for political speech. In February 2006, following a petition filed by Adalah,²³⁸ the Supreme Court unanimously ruled the decision to remove Dr. Bishara’s immunity illegal and dismissed all charges against him for his political speeches.
- In addition to these indictments, on 7 June 2010, the Knesset House Committee voted to revoke the parliamentary privileges of MK Haneen Zoabi (Tajammoa/Balad). The decision was approved by the Knesset plenum later in July 2010. MK Zoabi participated in the Gaza Freedom Flotilla and was a passenger on the *Mavi Marmara*. As MK Zoabi enjoys parliamentary immunity, she was not detained but she was subjected to an extensive interrogation. Her description of the attacks contradicts the Israeli government’s official version of the events²³⁹ and she has called for an international, independent inquiry into the attacks. As a result, MK Zoabi has lost her diplomatic passport, any privileges in overseas travel enjoyed by MKs, and the right for the Knesset to cover her legal fees should her immunity be revoked for the purposes of criminal prosecution. The vote followed several stormy sessions in the Knesset during which MK Zoabi was branded a “terrorist” and “traitor” by fellow parliamentarians and subjected to racist and sexist remarks and physical threats.²⁴⁰ Various Israeli ministers and MKs have called for the revocation of her Knesset membership, for her to be criminally prosecuted, and even for her Israeli citizenship to be revoked, as proposed by Interior Minister Eli Yishai.^{241; 242}

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²³⁸ HCJ 11225/03, *MK Azmi Bishara. v. The Attorney General, et al.*, petition accepted 1 February 2006.

²³⁹ See, e.g., <http://english.aljazeera.net/programmes/rizkhan/2010/06/20106136375951921.html>; and <http://www.israelioccupation.org/2010/06/13/democracy%20now%20interviews%20haneen%20zoabi%20video/>

²⁴⁰ See other MKs attack on MK Zoabi at: <http://www.youtube.com/watch?v=KBUXZnHb2ig>

²⁴¹ See, e.g., “Dangerous Incitement,” *Haaretz Editorial*, 7 June 2010, available at: <http://www.haaretz.com/printedition/opinion/dangerous%20incitement%201.294595>

²⁴² On 7 October 2010, Adalah on behalf of MK Zoabi and the Association for Civil Rights in Israel submitted a petition to the Supreme Court of Israel against the Knesset’s decision to revoke MK Zoabi’s parliamentary privileges. See Adalah, *Petition to Israeli Supreme Court: the Knesset’s Revocation of MK Haneen Zoabi’s Parliamentary Privileges is Illegal and must be Cancelled*, 7 November 2010, available at: http://www.adalah.org/eng/pressreleases/pr.php?file=07_11_10