



Adalah's Submission to the United Nations Human Rights Council's Universal Periodic Review of Israel January 2013

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Adalah ("Justice" in Arabic) is an independent human rights organization. Established in 1996, it works to promote and defend the rights of Palestinians in Israel and the Occupied Palestinian Territory (OPT). Adalah has special consultative status with ECOSOC. Adalah welcomes the opportunity to contribute to the Universal Periodic Review of Israel's compliance with international human rights law. As submissions may not exceed five pages, this document gives a very brief summary of a selection of relevant issues.

Adalah – The Legal Center for Arab Minority Rights in Israel
Submission to the UN Universal Periodic Review of Israel, January 2013

The Palestinian Arab minority in Israel comprises close to 20% of the total population of the state, and numbers around 1,200,000 people. A part of the Palestinian people, they are citizens of Israel and belong to three religious communities: Muslim (81%), Christian (10%) and Druze (9%). Under international human rights instruments, they constitute a national, ethnic, linguistic and religious minority.

I. ISRAEL’S COMMITMENTS TO THE UPR, 2008

At its first Universal Periodic Review in 2008, Israel committed to:¹

- **Further address the remaining gaps between the various populations in Israeli society;**
- **Strengthen efforts to ensure equality in the application of the law, to counter discrimination against persons belonging to all minorities, to promote their active participation in public life, such as through additional government resolutions to raise the percentage of the Arab minority in the civil service.**

Israel has, however, failed to address either of these commitments adequately, and has, in fact, further increased inequality between the Palestinian Arab minority and Jewish majority in Israel through new discriminatory legislation and policies, as demonstrated in this report.

II. NORMATIVE AND INSTITUTIONAL BACKGROUND

CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

Israel lacks a written constitution or a basic law that constitutionally guarantees the right to equality before the law and prohibits direct or indirect racial discrimination. The Basic Law: Human Dignity and Liberty, considered a mini-bill of rights, does not enumerate a right to equality; on the contrary, it emphasizes the character of the state as a Jewish state.²

The lack of a constitutionally-guaranteed right to equality has allowed Israel to enact over 40 discriminatory laws that relate only to the rights of Jewish citizens or abridge the rights of Arab citizens, or else use neutral language and general terminology, but have a discriminatory effect on Arab citizens of Israel. Indeed, since Israel’s first submission to the UPR in 2008, the Knesset has enacted 20 new discriminatory laws.³ From 2009 to 2012, when one of the most right-wing government coalitions in the history of Israel was in power, Members of the Knesset (MKs) introduced a flood of discriminatory and often racist legislation that directly or indirectly targets Palestinian Arab citizens of Israel, in direct breach of Israel’s commitment to counter discrimination against persons belonging to minorities. Examples of these newest laws include: the “Admissions Committee Law,” which de facto bans Arab citizens from living in hundreds of small community towns built on state land throughout Israel; the “Nakba Law,” which authorizes the Finance Minister to cut state funding to an institution if it holds an activity to commemorate the Nakba; the “Anti-Boycott Law,” which makes it a “civil wrong” to publicly

¹ See UPR Info, Israel “Voluntary Pledges”: http://www.upr-info.org/database/index.php?limit=0&f_SUR=82&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=100&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly

² Section 1(a) of the law: “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).

³ For more information, see Adalah, *New Discriminatory Laws and Bills in Israel*, October 2012: http://adalah.org/Public/files/English/Legal_Advocacy/Discriminatory_Laws/Discriminatory-Laws-in-Israel-October-2012-Update.pdf

call for a boycott of Israeli settlements in the West Bank' and the "Economic Efficiency Law", which affords ministers sweeping discretion to award a range of unspecified lucrative benefits to towns and villages (namely Jewish communities) within designated "National Priority Areas".

III. PROMOTION AND PROTECTION OF HUMAN RIGHTS

RIGHT TO PARTICIPATE IN POLITICAL LIFE

In recent Knesset elections (2003, 2006 and 2009), right-wing political parties, MKs and activists, and even a former Attorney General, have attempted to disqualify Arab parties and individual MKs from running for seats in the legislature. These ongoing attempts seek to limit the political voice of Arab citizens and entrench their political marginalization and breach Israel's commitment to promote the active participation of minorities in public life.

In the last Knesset elections, in 2009, the Central Elections Committee (CEC) voted to ban two Arab parties from running, 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 traveling to or assisting travel to "enemy states", under Section 7A of The Basic Law: The Knesset. In response to the CEC's decision, which was supported by the Likud, Labor and Kadima political parties, Adalah filed a Supreme Court appeal arguing that banning the parties from standing for election would deny the Arab minority an effective vote and harm their 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. Before the upcoming elections on 22 January 2013, further disqualification motions are expected to be filed against Arab parties and MKs.

Moreover, Adalah is currently representing Arab MKs Haneen Zoabi, MK Dr. Ahmad Tibi, MK Sa'id Naffaa, and MK Mohammed Barakeh.⁴ These MKs, as well as all of the political leadership of the Palestinian Arab minority in Israel, face sustained and severe attacks and harassment from Israeli government officials and incitement from extreme right-wing MKs. MK Zoabi has been stripped of some of her parliamentary privileges, and MK Barakeh and MK Naffaa were stripped of their immunity, and are facing criminal indictments for their legitimate and protected political activity. In another case, the Knesset refused to permit the introduction of legislation submitted by MK Tibi seeking to prohibit Nakba denial. These attacks violate Arab citizens' rights to genuine political participation; the MKs freedom of opinion and expression, free association and peaceful assembly; and the right to equal protection of the law and non-discrimination before the law.

PARTICIPATION OF MINORITIES IN PUBLIC SERVICE

Despite making up 20% of Israel's population, Palestinian citizens are greatly underrepresented in the public service. According to the Civil Service Commission, the number of Arab employees in the civil service was 4,982 in 2011, or 7.8% of the total. This is only a small increase from 4,245 (7.0%) in 2009.⁵ The percentage of Arab women in the civil service is even lower. In 2011, only 2.9% of Arab employees in the service were women, marginally up from

⁴ See "Briefing Note: Adalah's Representation of Arab Members of Knesset - Protecting the Right to Political Participation" May 2012 – Updated October 2012:

http://adalah.org/Public/files/English/International_Advocacy/Arab-MKs/Adalah-Briefing-Note-Defending-Arab-MKs.pdf

⁵ The Civil Service Commission, "Annual Report 2011" (Hebrew).

2.8% in 2010, 2.6% in 2009, and 2.4% in 2008.⁶ Arabs are also underrepresented in all government ministries that have a decisive impact on their lives, such as the Ministries of Health (7.2%), Education (6.2%), Transport (2.3%), Housing (1.3%) and Finance (1.2%),⁷ and rarely found in decision-making posts. A number of government decisions have been issued over the past decade that order the implementation of interim quotas for the representation of Arab men and women, including the target of 10% by 2010,⁸ and again in 2012.⁹ The government consistently fails to reach these targets.

RIGHT TO WORK AND FAVORABLE CONDITIONS OF EMPLOYMENT

Due to the state's unequal allocation of resources in favor of the Jewish population, Arab citizens of Israel generally have limited employment opportunities and therefore a relatively low socio-economic status. The state has long implemented a policy of locating employment-generating industrial zones in or near to Jewish towns and villages, almost entirely excluding Arab towns and villages. 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.¹⁰ Only 2.4% of all industrial zones in Israel are located in Arab towns and villages. Similarly, governmental incentives for new businesses and entrepreneurs are sorely lacking in Arab towns and villages. Aggravating the problem is the absence of frequent public transportation from many Arab towns and villages to central cities, which makes it more difficult for Arab citizens, particularly for women and young people who often do not own cars, to work elsewhere. In addition, Arab citizens often have to travel long distances to reach employment offices, few of which are located in Arab towns and villages.

The state's discriminatory economic policies serve to entrench the disadvantaged status of Arab citizens. In 2011, for example, the employment rate for Arab men (aged 25-64) was 72.2%, compared to 81.4% for Jewish men. More starkly, the employment rate among Arab women in the same age cohort was only 26.8%, compared with 75.3% for Jewish women.¹¹ The average gross monthly income among Arab male workers was 42% lower than for Jewish male workers in 2008, and the average gross monthly income for Arab female workers was 28% lower than for Jewish female workers in the same year.¹² It is therefore unsurprising that in 2008, 53.5% of all Arab families in Israel were classified as poor, compared to an average of 20.5% among all families in Israel.¹³ The figure is far higher among Arab Bedouin families in Israel, at 67.2% in 2007.¹⁴ While Arab citizens constitute around 20% of the total population of Israel they accounted for 44.5% of the poor population in 2008.¹⁵ The net monthly income of Arab households was just 63% of the net monthly income of Jewish households in 2007, despite the

⁶ Ibid.

⁷ The Civil Service Commission, "Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service," 2006 (Hebrew).

⁸ These decisions include Government Decision 1832 of 29 April 2004; Government Decision 414, 2006; Government Decision 2579, 2007; and Government Decision 4437, 2009. See the Third Periodic Report of the State of Israel to the UN Human Rights Committee, CCPR/C/ISR/3, 21 November 2008.

⁹ See European Commission High Representative of the EU for Foreign Affairs and Security Policy, "Implementation of the European Neighborhood Policy in Israel – Progress in 2011 and recommendations for action," 15 May 2012: http://ec.europa.eu/world/enp/docs/2012_enp_pack/progress_report_israel_en.pdf

¹⁰ Mossawa Center, "Arab Citizens' Share of the State Budget for 2008", May 2008 (Hebrew).

¹¹ Ministry of Industry, Labour and Trade, *Progress Report on the Implementation of the OECD Recommendations: Labour Market and Social Policies*, June 2012, p. 38.

¹² Central Bureau of Statistics (CBS), *Income of Individuals (Income Survey) 2008*, Table 25.

¹³ National Insurance Institute, *Poverty and Social Gaps, Annual Report 2009*, pp. 5, 11 (Hebrew).

¹⁴ OECD, *Labour Market and Socio-Economic Outcomes of the Arab-Israeli Population*, March 2010, p. 31: <http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM%282010%292&doclanguage=en>.

¹⁵ The National Insurance Institute, *Annual Survey 2009*, p. 83 (Hebrew).

larger average size of Arab families.¹⁶ According to Israel's National Insurance Institute, there was an increase of 1.2% in the number of Arab families living below the poverty line between 2009 and 2010, compared to a parallel decrease of 8.3% in the number of Jewish families.¹⁷ Thus, Israel has not upheld its commitment to reduce gaps between Arab and Jewish citizens.

RIGHT TO HEALTH AND SOCIAL SECURITY

The National Health Insurance Law (1995) requires the healthcare system to provide equitable, high-quality health services to all citizens of Israel. However, Palestinian citizens of Israel face numerous barriers that prevent them from exercising their right to the highest sustainable standard of health. Notably there is a lack of clinics and hospitals in Arab towns and villages: Nazareth is the only Arab town in Israel with hospitals and these three hospitals are not state hospitals, but are church-run. All state hospitals are in Jewish or mixed cities. The limited provision of public transportation to and from Arab towns and villages exacerbates the problem. Specialized health facilities for disabled children are also lacking or woefully inadequate in Arab towns and villages. Further, Palestinian citizens of Israel may face a language barrier, since most health-service providers speak only Hebrew.

The problem of access to healthcare and mobility is particularly acute in the Naqab in the south of Israel. Unrecognized Arab Bedouin villages, which are referred to by the state as "illegally constructed villages" and afforded no legal status, lack on-site health facilities and clinics, and in the absence of public transport hospitals located elsewhere are inaccessible to many villagers.

The effects of inadequate health care are reflected in the persisting gaps in the health indicators of Arab and Jewish citizens. For example, 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 for Palestinians the rate was 6.5 per 1,000 live births. For the Arab Bedouin, the rate is even higher, at 11.5 per 1,000 live births in 2008.¹⁸ The fact that Arab Bedouin children have the highest rates of disease and infections in the country, can be in large part attributed to the state's refusal to provide accessible healthcare for them or their mothers, as well as its refusal to connect dozens of unrecognized villages to the water network. In 2008, the average life expectancy for Arab men was just 75.9 years, compared to 79.9 years for Jewish men; the life expectancy for Arab women was 79.7 years, compared to 83.3 years for Jewish women.¹⁹

RIGHT TO EQUAL EDUCATIONAL STANDARDS

Arab children in Israel make up 25% of the country's school students, at around 480,000 pupils. From elementary to high school, Arab and Jewish students learn in separate schools. While Arab schools have a separate curriculum taught in Arabic, it is designed and supervised by the Education Ministry, where Arab educators have little-to-no decision-making powers. Students in Arab state-run schools receive very little instruction in Palestinian or Arab history, literature and culture, and spend more time learning the Torah than the Qur'an or the New Testament.

The Arab education system faces systematic, institutionalized discrimination that negatively affects the education outcomes of Arab children. Although Israel does not regularly release official data detailing how much it spends in total on each Arab and Jewish student (a major gap in transparency), the state's under-funding of the Arab education system is visibly manifested in the poor infrastructure and facilities characteristic of Arab schools and the more crowded classrooms. Underinvestment in Arab education is most blatant in the Naqab, where Arab

¹⁶ OECD, *Labour Market and Socio-Economic Outcomes of the Arab-Israeli Population*, March 2010, p. 33.

¹⁷ The National Insurance Institute, "Trends in Developments in poverty and Standards of Living for the First Half of 2010", 11 March 2011 (Hebrew).

¹⁸ The Central Bureau of Statistics, *Statistical Abstract of Israel*, 2009.

¹⁹ CBS, *Israel in Figures 2009*, p. 11 (English): http://www.cbs.gov.il/publications/isr_in_n09e.pdf.

Bedouin schools often lack services and facilities, including toilets, electricity, telephone and internet, and safe access roads, particularly in the unrecognized villages that have schools.^{20, 21}

As a result of the state's negligence, Jewish school children in Israel outperform Arab children from early on in their education. In the 2009/10 academic year, 38.3% of Arab students received matriculation certificates, compared to 54.4% of Jewish students.²² Another alarming trend is the high dropout rates: 7.2% of Arab students dropped out of school compared to 3.7% of Jewish students in 2006-2008; between grades 9 to 11, the dropout rates were 8.7% among Arabs and 4.4% among Jews.²³ These trends attest to the state's inability or unwillingness to address the inequalities, entrenching the gaps between Arab and Jewish children.

RIGHTS OF MINORITIES AND INDIGENOUS PEOPLES

Arab Bedouin citizens of Israel, inhabitants of the Naqab desert since at least the 7th century CE, are the most vulnerable community. For over 60 years, Israel has pursued policies of mass displacement, home demolitions and dispossession of the Arab Bedouin from their ancestral land. Today, 70,000 Arab Bedouin live in 35 "unrecognized" villages that either predate the establishment of the State of Israel in 1948, when around 85% of the Bedouin were expelled or displaced, or were created by Israeli military order in the early 1950s. Israel considers the villages "unrecognized" and their inhabitants "trespassers on State land", and denies citizens who live in them access to basic infrastructure like water, electricity, sewage, education, health care and roads. If Israel applied the same criteria for planning and development that are applied in the Jewish rural sector, all 35 unrecognized villages would be recognized.

In September 2011, the government approved the Plan for the Regulation of the Settlement of the Bedouin in the Negev, or the "Praver Plan".²⁴ The plan will lead to the forced displacement of tens of thousands of Arab Bedouin citizens of Israel from their homes and land in the unrecognized villages in the Naqab. The Bedouin citizens affected by this plan will be concentrated in over-crowded and under-funded government-planned townships, which are unsuited to their traditional way of life, and offered meager compensation. Despite complete rejection of the plan by the Arab Bedouin, and strong condemnation from the international community,²⁵ the Praver Plan is being implemented now. More than 1,000 houses were demolished in 2011 alone, and civil society is seeing the same practices in 2012.²⁶ Since the Praver Plan was announced, the government has informed of plans that will displace over 10,000 people and plant forests, build military centers, and establish new Jewish towns and villages in their place.²⁷

²⁰ See, e.g. Adalah, Press Briefing, 9 July 2009: http://www.adalah.org/eng/pressreleases/pr.php?file=09_07_10

²¹ See Adalah, Press Briefing, 11 October 2011: <http://www.adalah.org/eng/?mod=articles&ID=1599>

²² OECD *Progress Report 2012*, p. 102.

²³ CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.24.

²⁴ Adalah's overview and analysis of the recommendations is available at:

<http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>

²⁵ For example, in March 2012, the UN Committee on the Elimination of Racial Discrimination in its concluding observations called on Israel to withdraw the Praver Plan legislation on the grounds that it was discriminatory (para. 20). See: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf>

In July 2012, the European Parliament passed a historic resolution calling "for the withdrawal of the Praver Plan by the Israeli Government" and an end to its policies of "house demolitions, forced displacements [and] public service limitations". See: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0298+0+DOC+XML+V0//EN&language=EN>

²⁶ Negev Coexistence Forum, "House demolitions in the Negev", 26 June 2001:

http://www.dukium.org/eng/?page_id=885

²⁷ See Adalah's Special Reports, "Demolition and Eviction of Bedouin Citizens of Israel in the Naqab (Negev) - The Praver Plan": <http://www.adalah.org/eng/?mod=articles&ID=1589>