

Discrimination is the Solution

By Hassan Jabareen*

Reverse discrimination in housing

A Jewish family living in Moshav Nevatim in the south of Israel sought to rent its home for one year to close friends, who happen to be an Arab family also from the Negev. The moshav's committee objected and turned to the district court, arguing that the lease had been made in violation of the moshav's procedures, which require the committee's prior approval. The Jewish family argued that this process was not standard procedure at the moshav and that it was not the first time that a home had been rented without prior approval, especially for a short-term rental. The district court that heard the evidence was convinced that this indeed was not standard procedure at the moshav. Members of the moshav spoke openly to the media about how they were entitled to block the rental because it stood to harm the "cultural character" of the moshav. The moshav's committee appealed to the Supreme Court against the district court's decision, and this month the court ruled that the rental agreement did require the committee's approval. Surprised by the ruling, lawyers continue to ask Adalah, which represented the Jewish family questions such as: How could the Supreme Court rule against the findings of the district court that heard the evidence? How could it disrespect the right of the Jewish family to rent its home to whomever they choose? In any event, in this case the Supreme Court has showed its equal approach: it discriminated not only against the Arab family, but also against the Jewish family that preferred Arab friends to Jewish ones.

Reverse discrimination in services?

An Arab cafe in Haifa, "Azzad," decided to deny service to a soldier in uniform, arguing that the café is opposed to a military appearance, whether worn by Arabs or Jews. The soldier submitted a torts case to the court against the cafe. The law prohibits discrimination in providing services but it does not cite a specific prohibition on discrimination based on external appearance. Parallel to the tort case, the Haifa Municipality initiated an administrative proceeding to close down the cafe for discriminating against the soldier.

This case is an historic turning point: for the first time, Arabs are discriminating against Jews in the Jewish state. If the soldier wins the tort suit and the court prohibits discrimination on the basis of external appearance, this ruling will only benefit religious Arab women, who are often discriminated against on the basis of their external appearance (for wearing the *hijab* head covering) by being body-searched when entering shopping malls. If the municipality wins its case and is allowed to close down the cafe, this decision will only provide comfort to Arab citizens, who are frequently discriminated against when entering restaurants and pubs, but it would also lead to the closure of dozens of Jewish cafes, pubs and restaurants in Haifa.

And here we discover a possible new Arab strategy: in order to fight discrimination, Arabs should begin to discriminate against Jews. For example, an Arab cafe could publish an advert for "employees who did not serve in the army." The courts will rule against it and declare that military service is not a relevant criterion in hiring for the job. The ruling would only benefit Arab citizens, who are discriminated against in employment on a daily basis for not serving in

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the army. Similarly, a friendly Jewish family could be found to seek to rent a home in an Arab village. The Arab local council would refuse to register the rental on the ground that it would harm the village's "cultural character." The courts would rule against the Arab local council and prohibit discrimination in housing on the basis of nationality, thereby reversing the Supreme Court's ruling in the Moshav Nevatim case. There are many other possible examples that are best kept under wraps for now. (For the sake of proper disclosure, Adalah represents the Azzad cafe in the administrative proceeding against the closure order issued by the Haifa Municipality.)

Counter-incitement

Journalist Ben Caspit of the Hebrew daily newspaper *Maariv* has frequently lashed out against human rights organizations in Israel of late. In order to heighten the incitement and hatred against them, he uses Adalah. In his most recent article, he emphasized that these human rights organizations, led by Adalah, organized, participated in and led the worldwide "Apartheid Week against Israel" events earlier this month. Close friends were very angry at Adalah. How dare Adalah, which did not participate in the events and is not a member of the boycott movement, steal the credit from the others for something it did not do. We responded to this criticism by saying that we were not behind this article, that Ben Caspit did not check the facts with us, and that he did not write these remarks with the intention of praising Adalah. To the contrary, his intention was to incite Hebrew readers against Adalah. If Jews from Tel Aviv who are members of the boycott movement submit a torts suit against *Maariv* for distorting the facts, would the Tel Aviv court rule in their favor? Perhaps it would be best in this case to adopt the Arab strategy of Azzad.