



New Discriminatory Laws and Bills in Israel

June 2011

2011 marked a further escalation in the legislation and enactment of discriminatory and anti-democratic laws by the Israeli Knesset. Between January and April 2011, several laws have been enacted that threaten the rights and harm the legitimate interests of Arab citizens of Israel, on the basis of their national belonging. The laws concern a broad range of rights, including land rights, citizenship rights, the right to political participation, the rights to freedom of expression and association, and the rights to a fair trial and freedom from torture and ill-treatment.

The laws approved in 2011, which are detailed below, include the Admissions Committees Law; an amendment to the Israel Lands Law; the Law to Revoke Citizenship for Acts Defined as Espionage and Terrorism; the "Nakba Law"; the Law to Strip Payments from a Current or Former Member of Knesset due to a Crime; and the "NGO Foreign Government Funding Law".

The elections in February 2009 first brought in the current, 18th Knesset, and saw one of the most right-wing government coalitions in the history of Israel come to power. Members of Knesset (MKs) immediately introduced a flood of discriminatory legislation that directly or indirectly targets Palestinian Arab citizens of Israel, as well as Palestinians in the OPT and the Palestinian refugees. These new laws and bills, which continue to surface on a near weekly basis, seek, inter alia, to dispossess and exclude Arab citizens from the land; turn their citizenship from a right into a conditional privilege; undermine the ability of Arab citizens of Israel and their parliamentary representatives to participate in the political life of the country; criminalize political expression or acts that question the Jewish or Zionist nature of the state; and privilege Jewish citizens in the allocation of state resources. It is particularly disturbing that some of the legislation appears to be specifically designed to preempt, circumvent or overturn Supreme Court decisions providing protection for these rights.

This paper provides a list of 23 main new laws and currently-tabled bills that discriminate against the Palestinian minority in Israel and threaten their rights as citizens of the state, and in some cases harm the rights of Palestinian residents of the OPT. While this paper does not cover the entire body of discriminatory legislation currently pending in the Knesset, it lists bills that have a good chance of enactment and/or stand to cause significant harm to the rights of Palestinians. These laws and bills

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accompany a series of criminal indictments issued by the Attorney General and Knesset-instigated punitive measures pursued against Arab Members of Knesset (MKs).¹ Adalah is currently representing Arab MKs Mohammed Barakeh, Said Naffaa' and Haneen Zoabi in these cases.

¹ See Adalah Briefing Paper, "Restrictions on Human Rights Organizations and the Legitimate Activities of Arab Political Leaders in Israel," submitted to the European Parliament, Committee on Foreign Affairs, Sub-Committee on Human Rights, June 2010: <http://www.adalah.org/newsletter/eng/jun10/docs/bp.pdf>. Since the publication of this paper in June 2010, Adalah has submitted petitions to the Supreme Court on behalf of MK Mohammed Barakeh (HCJ 5754/10, *Barakeh v. Tel Aviv Magistrate Court, et. al* (petition withdrawn June 2011)), and MK Haneen Zoabi (HCJ 8148/10, *Zoabi v. The Knesset, case pending, order to show cause issued*).

Land and Planning Rights

1. The Israel Land Administration (ILA) Law (2009)

The law, enacted by the Knesset on 3 August 2009, institutes broad land privatization. Much of the land owned by the Palestinian refugees and internally-displaced persons (currently held by the state as “absentees’ property”), some of the lands of destroyed and evacuated Arab villages, and land otherwise confiscated from Palestinian citizens, can be sold off to private investors under the law and placed beyond future restitution claims. This land, which totals an estimated 800,000 dunams, includes refugees’ properties now located in the mixed Arab-Jewish cities and land that has been developed or that is zoned for development in master plans. It also grants decisive weight to representatives of the Jewish National Fund (JNF) (6 out of 13 members) in a new Land Authority Council, to replace the Israel Land Administration (ILA), which manages 93% of the land in Israel.²

[Position Paper](#) | [Press Briefing](#) | [The law in Hebrew](#)

2. Amendment (2010) to The Land (Acquisition for Public Purposes) Ordinance (1943)

This British Mandate-era law allows the Finance Minister to confiscate land for “public purposes”. The state has used this law extensively, in conjunction with other laws such as the Land Acquisition Law (1953) and the Absentees’ Property Law (1950), to confiscate Palestinian-owned land in Israel. The new amendment, which passed on 10 February 2010, confirms state ownership of land confiscated under this law, even where it has not been used to serve the original confiscation purpose. It allows the state not to use the confiscated land for the original confiscation purpose for 17 years, and prevents landowners from demanding the return of confiscated land not used for the original confiscation purpose if it has been transferred to a third party, or if more than 25 years have elapsed since the confiscation. The amendment expands the Finance Minister’s authority to confiscate land for “public purposes,” which under the law includes the establishment and development of towns, and allows the Minister to declare new purposes. The new law was designed to prevent Arab citizens of Israel from submitting lawsuits to reclaim confiscated land: over 25 years have passed since the confiscation of the vast majority of Palestinian land, and large tracts have been transferred to third parties, including Zionist institutions like the JNF.

[Press Briefing](#) | [The law in Hebrew](#)

² See HCJ 9205/04, *Adalah v. Israel Land Administration (ILA), et al.* (case pending). This Supreme Court petition was filed by Adalah in 2004 demanding the cancellation of an ILA policy permitting the marketing and allocation of JNF-controlled lands by the ILA (a state agency) through bids open only to Jewish individuals.

3. Amendment (2010) to the Negev Development Authority Law (1991): Individual settlements

“Individual settlements” are a tool used by the state to provide individual Jewish Israeli families with hundreds and sometimes thousands of dunams of land for their exclusive use, and keep it out of the reach of Arab citizens of Israel in the Naqab (Negev). There are around 60 individual settlements in the Naqab, stretching over 81,000 dunams, often established without permits and contrary to planning laws. The amendment, passed in July 2010, provides legal tools for the recognition of all individual settlements in the Naqab, and gives the Negev Development Authority the power to make recommendations the Israel Land Administration to allocate lands for individual settlements. The amendment followed an Israeli Supreme Court ruling in June 2010 that allowed for the recognition of individual settlements in the Naqab covered by the “Wine Path Plan”. The court delivered the ruling on a petition filed against the Wine Path Plan by Adalah, Bimkom and the Negev Coexistence Forum in 2006.³ While the amendment affords official status to the individual settlements, which are provided with all basic services, the unrecognized Arab Bedouin villages in the Naqab are denied status and their 90,000-100,000 inhabitants, all citizens of Israel, live without the most basic of services. In its judgment, the court did not address the petitioners’ arguments concerning the unequal land distribution and discrimination against the unrecognized villages entailed by the plan.

[Press Briefing](#) | [The law in Hebrew](#) (pp. 591-593)

4. The Admissions Committees Law (2011)

The Admissions Committees Law legalizes “admission committees” that operate in nearly 700 small community towns built on state land in the Naqab and Galilee.⁴ The law gives admission committees, bodies that select applicants for housing units and plots of land, full discretion to accept or reject individuals from living in these towns. The committees include a representative from the Jewish Agency or the World Zionist Organization, quasi-governmental entities, and are used in part to filter out Arab applicants, in addition to other marginalized groups. While one of the law’s provisions states a duty to respect the right to equality and prevent discrimination, the law allows

³ HCJ 2817/06, *Adalah, et al. v. The National Council for Planning and Building, et al.* (decision delivered 15 June 2010), available at: http://www.old-adalah.org/newsletter/eng/jun10/docs/decision2817_06.pdf (Hebrew)

⁴ Adalah filed a Supreme Court petition against the law following its enactment on behalf of civil society organizations that represent groups whose exclusion from community towns is justified under the law. *HCJ 2504/11, Adalah, et al. v. The Knesset, et al.* Adalah has previously petitioned the Supreme Court in 2007 to challenge the policy and operation of admissions committees on behalf of the Arab Zubeidat family – who had been rejected by the admissions committee in the community town of Rakevet on the humiliating ground of their “social unsuitability”. *HCJ 8036/07, Fatina Ebriq Zubeidat, et al. v. The Israel Land Administration, et al.* In May 2010, Adalah also submitted an amended petition challenging a new ILA decision permitting admissions committees and their use of the criterion of “social suitability”. See Adalah news update, 27 July 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=27_07_10_1

these committees to reject applicants deemed “unsuitable to the social life of the community... or the social and cultural fabric of the town,” thereby legitimizing the exclusion of entire groups. The ILA instituted arbitrary and exclusionary criterion of “social suitability” in order to bypass the landmark Supreme Court decision in *Ka’adan* from 2000,⁵ in which the court ruled that the state’s use of the Jewish Agency to exclude Arabs from state land constituted discrimination on the basis of nationality. The law also authorizes admissions committees to adopt criteria determined by individual community towns themselves based on their “special characteristics”, including those community towns that have defined themselves as having a “Zionist vision”.

[Press Briefing](#) | [English translation of the law](#) | [The law in Hebrew](#) (pp. 683-686) | [Data Paper](#)

5. The Israel Lands Law (Amendment No. 3) (2011)

The law, passed in March 2011, prevents any person or party (public or private) from selling land or renting property for a period of over five years or from bequeathing or transferring private ownership rights in Israel to “foreigners”. Under the law, foreigners are any persons who are not residents or citizens of Israel, or Jews, who have the automatic right to immigrate to Israel under the Law of Return (1950). Under the law Palestinian refugees – the original owners of the land, who are entitled to the return of and to their properties under international law – become “foreigners”, along with all other persons who do not hold Israeli citizenship or residency, with the exception of Jewish people. In the past, Israeli law had considered the Palestinian refugees as “absentees”, whose property and property rights Israel undertook before the international community as a “custodian” to preserve until the conclusion of a political solution to the conflict between Israel and the Palestinians.⁶

[English translation of the law](#) | [The law in Hebrew](#) (pp. 754-756)

Economic, Social and Cultural Rights

6. The Economic Efficiency Law (Legislative Amendments for Implementing the Economic Plan for 2009-2010) (2009)

A section of this law concerns “National Priority Areas” (NPAs). This law continues to grant the government sweeping discretion to classify towns, villages and areas as NPAs and to allocate enormous state resources without criteria, in contradiction to a

⁵ HCJ 6698/95, *Ka’adan v. The Israel Land Administration, et al.*, P.D. 54(1) 258, decision delivered March 2000, available in English at: elyon1.court.gov.il/files_eng/95/980/066/a14/95066980.a14.pdf

⁶ For a commentary on the law, see Adalah Attorneys Haneen Naamnih and Suhad Bishara, “The Law of the Promised Land 2011 – Between Absentees and Foreigners,” Adalah’s Newsletter, vol. 82, May 2011, available at: http://www.adalah.org/upfiles/2011/Haneen_Suhad_Promised_Land.pdf

landmark Israeli Supreme Court decision from 2006.⁷ In that case, the court ruled unconstitutional a government decision from 1998 which classified 553 Jewish towns and only 4 small Arab villages as NPAs with “A” status in the field of education. In June 2010, after four years of non-compliance by the state and additional litigation, Adalah filed a new petition and a 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.⁸ In February 2011, the Supreme Court dismissed the petition after the Attorney General’s office announced that the government was no longer using the prohibited governmental decision, and that the new law did not extend its validity.⁹

[Press Briefing](#) | [Motion for contempt](#) (Hebrew) | [The law in Hebrew](#) (pp. 348-700)

A further section of the law stipulates that children who do not receive the vaccinations recommended by the Ministry of Health will no longer be provided with financial support in the form of “child allowances”. This provision mainly affects Arab Bedouin children living in the Naqab (Negev), since most of the children who do not receive the vaccinations come from this group due to the inaccessibility of health care. The provision therefore discriminates against them on the basis of their national belonging. The Ministry of Health recently closed down “mother and child” clinics in three Arab Bedouin towns which provide these vaccinations, and reopened just two of them after Supreme Court litigation by Adalah.¹⁰ Adalah submitted a petition to the Israeli Supreme Court on 7 October 2010, demanding the annulment of the amendment, which will come into effect on 15 December 2010.¹¹

[Press Briefing](#) | [Petition](#) (Hebrew)

7. Law to Strip Payments from a Current or Former Member of Knesset due to a Crime (2011)

In February 2011, the Knesset approved the “Law to Strip Payments from a Current or Former Member of Knesset due to a Crime”. Under this law, the Knesset may withhold salary and pensions from current or former MKs declared by the Attorney General to be alleged suspects or defendants or persons convicted of crime that is punishable by at least ten years’ imprisonment, and who do not appear at a criminal trial or investigation against them, including for reasons of being outside the country. The

⁷ HCJ 2773/98 and HCJ 11163/03, *The High Follow-Up Committee for Arab Citizens in Israel v. The Prime Minister of Israel*. Decision delivered February 2006, case brought by Adalah.

⁸ HCJ 4788/10, *The High Follow-Up Committee, et al. v. The Government of Israel* (case dismissed 2 February 2011).

⁹ See Adalah Press Briefing, 11 August 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=24_02_11

¹⁰ HCJ 10054/09, *Wadad El-Hawashly, et al. v. Ministry of Health*. For more information, see Adalah Press Briefing, 11 August 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=11_08_10

¹¹ HCJ 7245/10, *Adalah v. Minister of Welfare and Social Affairs* (case pending, order to show cause granted).

alleged crime should have been committed in full or in part during the period in which the suspect or defendant was an MK. The law was drafted in response to the exile of former Arab MK Dr. Azmi Bishara (Balad/Tajammaa), who left Israel in March 2007 after police announced he was suspected of giving information to Hezbollah during the Second Lebanon War. However, the state has not filed an indictment against Dr. Bishara or pointed to any clear evidence against him. These facts indicate the arbitrary nature of the law; even MKs against whom there is no clear evidence could be harmed and lose their pensions.

[The law in Hebrew](#) (pp. 350-352)

8. Absorption of Discharged Soldiers Law (1994) (Amendment No. 12) (2010)

According to the new law, enacted in July 2010, any registered university or college student who has completed his or her military service and is a resident of a designated “National Priority Area” such as the Naqab, the Galilee or the illegal Jewish settlements in the West Bank will be granted a “compensation package” including: full tuition for the first year of academic education; a year of free preparatory academic education; and additional benefits in areas like student housing. This benefits package goes far beyond and adds to the already extensive educational benefits package that is enjoyed by discharged soldiers in Israel. In general, Palestinian Arab citizens of Israel are exempt from military service and thus they are excluded from receiving these state-allocated benefits and discriminated against on the basis of their national belonging. This new law follows a 2008 amendment to the same law that anchors the use of the military service criterion in determining eligibility for student dormitories in all higher education institutions into law, and grants broad discretion to these institutions to grant additional economic benefits to discharged soldiers, regardless of the benefits provided to them under any other law.¹² A number of other bills that condition various benefits on the performance of military/national service are also pending in the Knesset.¹³

[Press Briefing](#) | [Position Paper](#) (Hebrew) | [The law in Hebrew](#) (pp. 604-606)

9. Bill Awarding Preferences in Services to Former Soldiers

¹² The amendment followed a precedent-setting decision by the Haifa District Court which accepted a petition filed by Adalah on behalf of three Arab students from the University of Haifa. The court ruled that the use of the criterion of military service in determining eligibility for student dormitories discriminates against Arab students. The petition argued that the university is not authorized to add benefits to discharged soldiers that exceed those granted to them by the Absorption of Discharged Soldiers Law. Civil Lawsuit (Haifa District Court) 217/05, *Naamnih et al. v. University of Haifa*, delivered August 2006.

¹³ See Adalah and the Arab Association for Human Rights (HRA), Briefing to the EU, 4 June 2009: http://www.adalah.org/features/var/Adalah_HRA_EU_upgrade_letter_FINAL_4.6.09%5B1%5D.pdf

This bill, which is entitled “The Rights of those who Performed Military or National Service Bill – 2010,” grants additional benefits to individuals who performed military or alternative national service compared to individuals who did not. These benefits are even broader in scope those provided for in Amendment No. 12 to the Absorption of Discharged Soldiers Law from 2010, detailed above. The bill relates to a number of benefits, including payment of tuition for higher education, the right to employment, and the right to purchase property or land. For example, under the bill a person who has served in the military would be entitled to financial support to help cover study at an institute of higher education, and would be exempted from paying fees to the state for a year after completing his or her service. Discharged soldiers and persons who performed alternative national service would also receive assistance in purchasing a first home. In addition, if passed, the bill would provide for plots of land and housing units to be allocated specifically to former soldiers. Under this legislation, the aforementioned benefits are provided based on the premise that military service and alternative national service demonstrate loyalty to the state, which is rewarded through the additional benefits, while members of the Arab minority in Israel is excluded since the vast majority are exempted from serving because of historical and political reasons. The bill passed a preliminary reading in the Knesset on 5 July 2010.¹⁴

[The bill in Hebrew](#)

10. Bill Granting Preference in Civil Service Appointments to Former Soldiers

Under this bill, entitled Employment in the Public Service (Appointments) (Amendment – Affirmative Action) Bill – 2009, preference will be granted to persons who have performed military service in the Israeli army or alternative national service in appointments to civil service positions. According to the bill, if two otherwise equally-qualified persons apply for a civil service position, one of whom performed military/ alternative national service and one who did not, then preference should be given to the former candidate, regardless of whether the service performed is relevant or not to the position in question. Thus the bill grants additional benefits to former soldiers, in contradiction to Article 15A(a) of the Civil Service Law (Appointments) – 1959 (as amended in 2000), which stipulates that every governmental minister should ensure adequate representation for the Arab minority in Israel in its offices. The law discriminates against members of the Arab minority, the vast majority of whom do not perform military service for historical and political reasons. On 22 May 2011 the Knesset’s Constitution, Law, and Justice Committee decided to forward the legislation to the Knesset plenum for an initial reading.¹⁵

[The bill in Hebrew](#)

Civil and Political Rights

¹⁴ Legislative bill no. P/18/2405.

¹⁵ Legislative bill no. P/18/1823.

11. Law to Revoke Citizenship for Acts Defined as Espionage and Terrorism (2011)

The law, formally known as the Citizenship Law (Amendment no. 10), was enacted on 28 March 2011 and allows courts to revoke the citizenship of persons convicted of treason, espionage, assisting the enemy in time of war, and acts of terrorism as defined under the Prohibition on Terrorist Financing Law (2005), if asked to do so by the Ministry of the Interior, as part of a criminal sentence delivered. Citizenship can only be revoked if the defendant has dual citizenship or else resides outside Israel (in which case the law creates an assumption that such a person has dual citizenship). If a person does not have dual citizenship or reside abroad, then he or she will be granted residency status in Israel instead of citizenship, a downgrading that severely restricts the right to political participation. In 26 October 2010, Adalah wrote to the Chair of the Knesset's Internal Affairs and Environment Committee asking him not to support the law. Adalah argued that the legitimate path for dealing with such alleged crimes is the criminal law, and that the law targeted Arab citizens of Israel and makes their citizenship conditional, in line with the right-wing political rallying cry of "no citizenship, no loyalty." This new amendment follows a prior amendment made to the Citizenship Law in 2008 which provides that citizenship may be revoked for "breach of trust or disloyalty to the state".¹⁶ The revocation of citizenship is one of the most extreme punitive measures at the disposal of states, and may result in cruel and disproportionate punishment, particularly when pursued against a particular group of citizens, in this case Palestinian citizens of Israel. The law was proposed following the arrest and indictment of Arab civil society leader Ameer Makhoul on charges of espionage.

[Press Briefing](#) | [English translation of the law](#) | [The law in Hebrew](#) (p. 733)

12. Law (2011) to Amend to the Budgets Foundations Law, Amendment No. 40 (The "Nakba Law")

The "Nakba Law" authorizes the Finance Minister to reduce state funding or support to an institution if it holds an activity that rejects the existence of Israel as a "Jewish and democratic state" or commemorates "Israel's Independence Day or the day on which the state was established as a day of mourning." Palestinians traditionally mark Israel's official Independence Day as a national day of mourning and organize commemorative events. The law violates their rights, and restricts their freedom to express their opinion, and will cause substantial harm to cultural and educational institutions and further entrench discrimination. The law also stands to cause major harm to the principle of equality and the rights of Arab citizens to preserve their history and

¹⁶ See, e.g., Amendment No. 9 (Authority for Revoking Citizenship) (2008) to article 11 of the Citizenship Law (1952). "Breach of trust" is broadly defined and even includes the act of naturalization or obtaining permanent residency status in one of nine Arab and Muslim states which are listed by the law, and the Gaza Strip. The law allows for the revocation of citizenship without requiring a criminal conviction.

culture. The law deprives Arab citizens of their right to commemorate the Nakba, an integral part of their history.¹⁷

[Press Briefing](#) | [English translation of the law](#) | [The law in Hebrew](#)

13. Bill to amend the Citizenship Law (1952) imposing loyalty oath for persons seeking naturalization in Israel and Israeli citizens seeking first ID cards

A proposed amendment to the Citizenship Law requires all persons seeking to naturalize via the naturalization process and Israeli citizens applying for their first ID cards (which is obligatory at the age of 16) to declare a loyalty oath to Israel as a “Jewish, Zionist, and democratic state, to its symbols and values, and to serve the state in any way demanded, through military service or alternative service, as defined by law.” It would replace the text of the current declaration: “I declare that I will be a loyal citizen of the State of Israel.” Requiring such an oath marginalizes the status of Arab citizens of Israel by deeming Israel a state for Jews only. The enactment of the amendment may prove to be a slippery slope as, according to numerous other bills introduced in the Knesset, declarations of allegiance to a Jewish and democratic state could soon be required of all ministers, Knesset members, civil service employees, etc.¹⁸ Adalah sent a letter to the Prime Minister, Attorney General, and Justice Minister on 7 October 2010, arguing that the bill specifically targets Palestinian Arab citizens, whose “non-Jewish” spouses – Palestinians from the Occupied Palestinian Territory (OPT) and other Arab states – are those who would have to swear the oath. The bill received the endorsement of the government on 10 October 2010 on condition that certain changes be made to its provisions, but does not currently enjoy the support of a Knesset majority. A new version of the law has not been published.¹⁹

[Press briefing](#) | [The bill in Hebrew](#)

¹⁷ On 4 May 2011, Adalah, ACRI, the parents of school children and school alumni petitioned the Supreme Court, requesting it to rule the Nakba Law unconstitutional. See Adalah news update, 5 May 2011 http://www.old-adalah.org/eng/pressreleases/pr.php?file=05_05_11. See also Sawsan Zaher, “The Prohibition on Teaching the Nakba in the Arab Education System in Israel,” *Adalah’s Newsletter*, Volume 74, August/September 2010:

<http://www.adalah.org/newsletter/eng/sep10/docs/Sawsan%20Nakba%20English%20final.pdf>

¹⁸ See, e.g., a currently-proposed amendment to The Basic Law: The Government – Loyalty Oath (Legislative bill no. P/18/5), which stipulates that upon taking office, 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 bills seeking to amend *The Basic Law: The Knesset* propose to impose loyalty oaths on MKs. The first (Legislative bill no. P/18/7) requires all MKs to make an oath to the state as a “Jewish, Zionist and democratic state” and to the values and symbols of the state. The second (Legislative bill no. P/18/226) requires MKs to swear allegiance to the State of Israel as a “Jewish and democratic state.” These bills place severe restrictions on the rights of Arab citizens of Israel of political participation.

¹⁹ Legislative bill no. P/17/3046.

14. Bill (2009) to amend the Basic Law: Human Dignity and Liberty and limit the judicial review powers of the Supreme Court to rule on matters of citizenship

This bill was proposed in December 2009 and seeks to limit the judicial review powers of the Israeli Supreme Court on citizenship issues. It was put forward in the context of Supreme Court hearings on petitions filed against provisions of the Citizenship and Entry into Israel Law (Temporary Order) – 2003 (amended 2007) that prohibit entry into Israel by Palestinians in the OPT and other “enemy states,” as defined by Israel (such as Syria, Lebanon, Iran and Iraq) for purposes of family unification with Israeli citizens, overwhelmingly Arab citizens of Israel.²⁰ Adalah sent a letter to the Justice Minister and Attorney General on 18 December 2009 requesting that they reject the bill on the grounds that it violates the right of access to the courts, as well as the principle of the separation of powers, and thus the rule of law.²¹ There is no coalition agreement to date to promote the bill.²²

[The bill in Hebrew](#)

Political Participation

15. The Regional Councils Law (Date of General Elections) (1994) Special Amendment No. 6 (2009)

The law grants the Interior Minister absolute power to declare the postponement of the first election of a Regional Council following its establishment for an indefinite period of time. The law previously stipulated that elections must be held within four years of the establishment of a new regional council. The Knesset passed the law shortly before elections were due to take place to the Abu Basma Regional Council, which includes ten Arab Bedouin villages in the Naqab (pop: 25,000) and was established over six years ago. The result of the law is that no elections have been held and local people are not represented or governing themselves. The current government-appointed council, which is comprised of a majority of Israeli Jewish members and appointed by the Interior Minister, remains in place. On 27 April 2010, Adalah and the Association for Civil Rights in Israel (ACRI) petitioned the Supreme Court of Israel to demand the cancellation of the amendment and ask the court to order the Interior Minister to announce the holding of democratic elections in the regional council immediately.²³ The organizations argued that the law represented a grave infringement of democratic values and the state’s duty to ensure regular transparent and democratic elections. At a

²⁰ See e.g., HCJ 830/07, *Adalah v. The Minister of the Interior, et al.* (case pending).

²¹ Letter on file with Adalah (Hebrew).

²² A series of bills pending in the Knesset seek to amend The Basic Law: The Judiciary in order to cancel the power of the Supreme Court to invalidate laws enacted by the Knesset. The Ministerial Committee on Legislation considered the bill on 18 October 2010, but the Prime Minister opposed it and it did not advance further.

²³ HCJ 3183/10, *Hussein Rafeea, et al. v. The Minister of the Interior, et al.*

hearing on the case held in February 2011, the Supreme Court ordered that elections to the Abu Basma Regional Council should be held no later than 4 December 2012.²⁴

[Press briefing](#) | [Petition](#) (Hebrew) | [The law in Hebrew](#)

Criminal Procedure Laws: Prisoners and Detainees

16. New Criminal Procedures Law that inflicts further violations on the basic rights of security detainees (2010)

This law, entitled the Criminal Procedure Law (Suspects of Security Offenses) (Temporary Order) (Amendment No. 2) (2010) is designed to extend the validity of harsh, special detention procedures for those suspected of security offenses.²⁵ While neutral on its face, in practice the bill would apply to and be used mainly against Palestinians from Gaza and Palestinian citizens of Israel. The special procedures allow law enforcement authorities to delay bringing a security suspect before a judge for up to 96 hours after arrest (instead of 48 hours for other detainees). It also allows the courts to extend a security suspect's detention for up to 20 days at a time (instead of 15 days) and to hold extension of detention hearings in his/her absence. In this last respect the law seeks to bypass a February 2010 Supreme Court decision that struck down article 5 of the Criminal Procedure (Detainees Suspected of Security Offences) (Temporary Order) Law (2006),²⁶ which stipulated that security suspects could have their pre-trial detention extended in their absence.²⁷ The law removes a number of essential procedural safeguards from detainees, thus placing them at a greater risk of torture and ill-treatment.²⁸

[Press briefing](#) | [The law in Hebrew](#)

17. Bill to expand the circumstances in which lawyers can be prohibited from meeting sentenced security prisoners

The governmental bill²⁹ contains an overly-broad and unconstitutional article that allows the Israel Prison Service (IPS) to prohibit prisoners involved in "security crimes" from meeting their lawyers if the IPS "fears" that this meeting may lead to the transfer of information relating to a terror organization. There are currently over 4,700

²⁴ See press briefing on the Supreme Court hearing at:

http://www.adalah.org/eng/pressreleases/pr.php?file=22_02_11

²⁵ The law was enacted on 20 December 2011.

²⁶ Originally passed by the Knesset as a "temporary order" for 18 months, the law was extended in January 2008 for three years.

²⁷ HCJ 2028/08, *The Public Committee Against Torture in Israel, et al. v. The Minister of Justice* (petition withdrawn 24 March 2009). For more information, see Adalah news update, 23 February 2010:

http://www.adalah.org/eng/pressreleases/pr.php?file=23_02_10

²⁸ Adalah sent a letter to the Knesset's Constitution, Law and Justice Committee on 21 October 2010 to demand that the bill be rejected.

²⁹ Legislative bill no. P/18/558, tabled on 10 January 2011.

sentenced Palestinian prisoners being held as “security prisoners” in Israeli prisons: the current bill targets and discriminates against “security prisoners”, who are overwhelmingly Palestinians, as well as their lawyers, who are also generally Palestinians.³⁰

In addition, the bill would allow the IPS to prohibit lawyers from meeting any sentenced prisoners – whether security or criminal prisoners – for a number of reasons, such as disciplinary infractions, harming the security of the prison or other prisoners, or harming the security of the public or the state, for lengthened periods of time. In such cases, the IPS can prevent meetings with lawyers for 96 hours (currently the law allows 24 hours) a period that could be extended for up to as many as 14 days (the law currently allows for only 5 days), with the approval of the state prosecutor. Under the bill the District Court can extend this prohibition for 6 months (instead of 21 days in the current law) and up to maximum period of one year (instead of three months under the current law). In practice, the existing law has been implemented predominantly against Palestinian “security prisoners”.

[The bill in Hebrew](#)

18. The “Shalit laws”

Several bills currently before the Knesset’s House Committee seek to impose further severe restrictions on Palestinian security prisoners held in Israeli prisons. All of these bills have passed a preliminary vote in the Knesset plenum and enjoy strong, broad-based support among MKs. The purpose of these additional restrictions on Palestinian prisoners is to bring pressure to bear on Hamas to release captured Israeli soldier Gilad Shalit. This is an illegitimate political purpose that cannot be used to justify the denial of prisoners’ basic rights. If approved by the Knesset, these bills would render Palestinian prisoners vulnerable to being used as hostages or bargaining chips in negotiations for prisoner exchanges.

- *The Preventing Visits Bill – 2009*³¹155 seeks to impose a blanket ban on prisoners who belong to an organization designated as a terror organization from receiving visits in prison.³² [The bill in Hebrew](#)
- *The Restriction of Visitation for a Security Prisoner Bill – 2010*³³ proposes that any prisoner who belongs to an organization designated as a terror organization that holds

³⁰ A previous draft of the bill, which did not receive the support of the Ministry of Justice, contained a parallel article that applied to prisoners sentenced for their involvement in “organized crime”, which was deleted from the current draft.

³¹ Legislative bill no. P/18/735, passed by the Knesset by a 52-10 majority, with 1 abstention

³² In accordance with this bill, such prisoners would only be entitled to visits by the International Committee of the Red Cross (ICRC), and these would be limited to once every three months.

³³ Legislative bill no. P/18/2396, passed by the Knesset by a 51-10 majority.

an Israeli captive should be denied visits in prison and the right to meeting a lawyer.

[The bill in Hebrew](#)

- *The Release of Captives and Kidnapped Persons Bill – 2009*³⁴ states that if an organization designated as a terror organization holds an Israeli captive and demands the release of a specific prisoner held in an Israeli jail, then this prisoner should be placed in “absolute isolation and be prevented from contact with another human being.” [The bill in Hebrew](#)

- *The Imprisonment of Requested Prisoners – 2009*³⁵ states that any prisoner whose release is conditioned on the release of an Israeli held captive by an organization designated as a terror organization should be denied any right that could be restricted on security reasoning, held in isolation indefinitely and not be entitled to early release or parole. Once such prisoners have served their sentence, they should be declared a detainee and continue to be held. [The bill in Hebrew](#)

Freedom of Association

The following series of bills seek to curtail the freedom of association and expression of NGOs in Israel. This barrage of bills is mainly a response to claims that the legitimate work of these organizations in defense of the rights of Palestinians constitutes a deliberate campaign to “delegitimize” Israel following the publication of the Goldstone Report in September 2009.³⁶ The fourth bill noted here specifically targets Arab organizations in Israel on lines similar to that of the “loyalty bills” noted above.

19. Duty of Disclosure for Recipients of Support from a Foreign Political Entity Law (2011) (“NGO Foreign Government Funding Law”)

This law, passed by the Knesset in February 2011, imposes invasive reporting requirements on NGOs, requiring them to submit and publish quarterly reports on any funding received from foreign governments or foreign publicly-funded donors, including detailed information on any oral or written undertakings made to the funders. These details must also be publicized on the websites of the NGOs, Ministry of Justice and Registrar of Associations. While the law’s declared purpose is transparency, these provisions are superfluous since every non-profit organization in Israel is already required under Israeli law to list its donors and other financial information on its website and to report annually to the government, specifying whether foreign governments have donated money.³⁷ Its purpose is rather to hinder

³⁴ Legislative bill no. P/18/829, passed by the Knesset by a 53-9 majority.

³⁵ Legislative bill no. P/18/758, passed by the Knesset by a 54-10 majority, with 1 abstention.

³⁶ See, e.g., The Reut Institute, *Building a Political Firewall Against Israel’s Delegitimization*, March 2010: <http://www.reut-institute.org/data/uploads/PDFVer/20100310%20Delegitimacy%20Eng.pdf>

³⁷ The Association for Civil Rights in Israel (ACRI) has cautioned against “misuse of (purported) transparency and reporting mechanisms for the purpose of negatively impacting the legal and legitimate activities of individuals, groups or bodies of various sorts, and against utilizing these tools to eliminate

NGOs and damage their financial viability, as these restrictions may strongly discourage foreign government funding, particularly to human rights NGOs, the groups in Israel that receive such support. By contrast, Israeli Jewish settler groups, which act contrary to the norms of international law, do not receive such funding; right-wing settler groups are privately funded and are therefore unaffected by the legislation. Furthermore, the law specifically exempts The World Zionist Organization, the Jewish Agency for Israel, the United Israel Appeal, the Jewish National Fund and their subsidiary corporations from its provisions. Thus the bill is inherently discriminatory. Palestinian organizations in Israel and all organizations that promote Palestinian rights are particularly vulnerable since they do not seek funding from Israeli governmental sources and have more limited access to private funding.³⁸

[Briefing Paper](#) | [English translation of the law](#) | [The law in Hebrew](#)

20. Bill to Prohibit Imposing a Boycott (2010) (“Ban on BDS Bill”)

The bill, tabled in June 2010, proposes to make any activities conducted by Israeli citizens and residents that promote any kind of boycott against Israeli organizations, individuals or products actionable civil wrongs.³⁹ According to the bill, if a court finds that a civil wrong was committed, then it can order damages in the sum of up to NIS 30,000 to any “injured party”, without requiring proof of actual damages. If passed, the bill will have a chilling effect on the activities of many NGOs in Israel and restrict their ability to function as human rights defenders. The bill was approved by the Knesset’s Constitution, Law and Justice Committee in February 2011 and passed its first vote in the Knesset plenum in March 2011. It will be discussed on 27 June 2011 by the Knesset’s Constitution, Law and Justice Committee and prepared for its final vote in the Knesset plenum.⁴⁰

[English translation of the bill](#) | [The bill in Hebrew](#)

and silence political or ideological opponents.” ACRI position paper on the bill, 23 February 2010, available at: <http://www.acri.org.il/eng/story.aspx?id=706>

³⁸ For more information, see *JNews*, “MKs push for further pressure on human rights groups as restrictive legislation progresses”, 10 March 2011, available at: <http://www.jnews.org.uk/news/mks-push-for-further-pressure-on-human-rights-groups-as-restrictive-legislation-progresses>

³⁹ In its original form, the bill targeted Israelis, the Palestinian Authority, Palestinians and foreign governments and individuals, and sought to impose heavy fines, economic sanctions and entry bans on supporters of boycott activities. However, when the bill passed the preliminary vote by the Knesset on 14 July 2010, the application of the prohibition to foreign citizens and foreign political entities was cancelled, leaving only a prohibition and fine on Israeli citizens and residents. See, *JNews*, “Antiboycott bill passes preliminary reading in the Knesset”, 14 July 2010: <http://www.jnews.org.uk/news/antiboycott-bill-passes-preliminary-reading-in-the-knesset>

⁴⁰ For more information, see *JNews*, “MKs push for further pressure on human rights groups as restrictive legislation progresses”, 10 March 2011, available at: <http://www.jnews.org.uk/news/mks-push-for-further-pressure-on-human-rights-groups-as-restrictive-legislation-progresses>

21. The Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association) (2010) (“Universal Jurisdiction Bill”)

This bill, introduced in February 2010, seeks to outlaw associations that provide information to foreigners or are involved in litigation abroad against senior officials of the Israeli government and/or army officers for war crimes.⁴¹ The bill would prohibit the registration of any NGO if “there are reasonable grounds to conclude that the association will provide information to foreign entities or is involved in legal proceedings abroad against senior Israeli government officials or military officers, for war crimes.” An existing NGO would be shut down under the proposed law for engaging in such activity. The text of the bill refers directly to the Goldstone Report to justify its provisions. Because it essentially seeks to conceal information or suspicions of a crime, it contradicts the customary norms of international criminal law and international humanitarian law. It constitutes a dangerous attack against human rights organizations and anyone opposed to war crimes. This private bill has not yet been approved by the government.

[Press Briefing](#) | [English translation of the bill](#) | [The bill in Hebrew](#)

22. Bill to Protect the Values of the State of Israel (Amendment Legislation) (2009) (“Jewish and Democratic State Bill”)

This private member’s bill would authorize the Registrar of Associations and the Registrar of Companies to close down associations or companies if their goals or actions endanger the state as a “Jewish and democratic” state.⁴² The bill, proposed in 2009, violates the right of freedom of association and freedom of expression of all Arab organizations in Israel which seek through democratic means to challenge discrimination, improve the political, legal, and social status of Palestinians in Israel, and promote the concept of Israel as a democratic state for all its citizens. It asks them to express their loyalty to the Jewish state and therefore seeks to limit the rights of the Arab minority. The bill bears similarities to Section 7A of the Basic Law: The Knesset – 1985 asks every Arab political party list not to deny the existence of Israel as a “Jewish and democratic” state, an un-democratic provision that has been used in every election to attempt to disqualify the Arab political parties from running in elections. The bill seeks to undermine the daily operation of Arab organizations and put them under ultra-nationalist, ideological investigation, threatening their legitimate activities. The Ministerial Committee for Legislation decided in early November 2010 that the text shall be modified in coordination with the Minister of Justice.

[Press Briefing](#) | [English translation of the bill](#) | [The bill in Hebrew](#)

⁴¹ Legislative bill no. P/18/2456.

⁴² Legislative bill no. P/18/1220. The bill was discussed by the Ministerial Committee for Legislation on 7 November 2010.

Occupied Palestinian Territory (OPT)

23. Amendment No. 8 (2007) to the Civil Wrongs (Liability of the State) Law (1952)

This bill seeks to exempt the state from its responsibility for injuries and damages inflicted on Palestinians in the OPT. Although proposed before the current government took office, it is sponsored by the government and is now being actively promoted. The proposed law would apply retroactively to injuries and property damages sustained by Palestinians from 2000 onwards. It stipulates that even the victims of unlawful acts by Israeli security forces carried out outside the context of any wartime action will be left without a legal remedy in the form of torts. In the absence of the right to claim damages in such cases, the possibility of investigating incidents of wanton damage to property, theft and abuse by soldiers or other members of the security forces would be further diminished. The bill seeks to reverse a unanimous, nine-justice Supreme Court decision delivered in December 2006 to invalidate a similar law.⁴³ In that case, the court ruled that the law violated the rights to life, dignity, property and liberty and was in breach of the Basic Law: Human Dignity and Liberty. After submitting a position paper to the Knesset's Constitution, Law and Justice Committee, Adalah participated in the Committee's debate on the amendment on 16 November 2010.⁴⁴

[Press Briefing](#) | [Position Paper](#) | [The law in Hebrew](#)

⁴³ See HCJ 8276/05, *Adalah, et al. v. Minister of Defense* (decision delivered 12 December 2006). An English translation of the Supreme Court's decision is available at: [http://www.icrc.org/ihl-nat.nsf/46707c419d6bdfa24125673e00508145/d40d96289166cdddc12575bc00361c74/\\$FILE/HCJ%208276.05.doc](http://www.icrc.org/ihl-nat.nsf/46707c419d6bdfa24125673e00508145/d40d96289166cdddc12575bc00361c74/$FILE/HCJ%208276.05.doc)

⁴⁴ See also, Ido Rosenzweig and Yuval Shany, Israel Democracy Institute, *Definition of "Combat Action" in Civil Tort Law (Liability of the State) – Amendment Bill (No. 8)*: http://www.idi.org.il/sites/english/ResearchAndPrograms/NationalSecurityandDemocracy/Terrorism_and_Democracy/Newsletters/Pages/10th%20Newsletter/2/2.aspx