



ADALAH: THE LEGAL CENTER FOR ARAB MINORITY RIGHTS IN ISRAEL

2002 ANNUAL REPORT OF ACTIVITIES

Issued September 2003

INTRODUCTION

This report highlights Adalah's main activities in 2002, our sixth year anniversary. As this report reflects, in 2002, Adalah undertook a wide-range of legal representations and conducted numerous other advocacy initiatives of crucial importance in promoting and defending the rights of the Palestinian minority in Israel. The year 2002 also saw the Israeli army's heaviest military incursions into the 1967 Occupied Territories in many years. The resulting humanitarian crisis also led Adalah, for the first time, to adopt an emergency litigation and advocacy agenda focusing on the gross human rights and humanitarian law violations committed against Palestinian civilians in the Occupied Territories.

This report is organized into four chapters: (I) **Legal Action**, which includes sections on Adalah's major representations, our Supreme Court litigation, and our litigation before the lower courts and other forums; (II) **International Advocacy**, which presents our work before the United Nations, the European Union, and the Inter-Parliamentary Union as well as staff and Board participation in international conferences, speaking tours, organizational development/networking workshops, and legal courses; (III) **Legal Education**, which discusses our activities ranging from seminars, study days and workshops; publications and reports; media; and training for law students and new lawyers; and (IV) **Institutional Development**, which describes the activities of the General Assembly, Board and staff, as well as the challenges faced by the organization in 2002, in particular, the Registrar of Associations' decision to open an investigation into Adalah and the many actions taken by the Board and staff to challenge that decision.

I. LEGAL ACTION

1. MAJOR REPRESENTATIONS

Adalah undertook five major legal representations in 2002: (a) the official Commission of Inquiry into the October 2000 protest demonstrations, which began in 2000; (b) the representation of MK Azmi Bishara on two criminal indictments, a case continued from 2001; (c) the representation of Sheikh Ra'ed Salah, beginning in February 2002; (d) emergency agenda – the Occupied Territories, which included litigation and advocacy dating from the end of March 2002; and (e) the elections disqualifications cases, which began in December 2002. All Adalah staff members contributed to these representations, which involved legal filings to the courts and other forums, extensive local and international media outreach, and international advocacy.

A. The Official Commission of Inquiry into the October 2000 Protest Demonstrations

The October 2000 Demonstrations. In early October 2000, Palestinian citizens of Israel staged mass demonstrations in towns and villages throughout the country to protest the government's oppressive policies against Palestinians in the 1967 Occupied Territories. The protests in Israel erupted soon after the al-Aqsa Intifada began in the Occupied Territories, during which the Israeli army and security forces killed and injured scores of Palestinians. These events were sparked by then-member of Knesset (MK) and Likud leader, Ariel

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Sharon's provocative visit to al-Haram al-Sharif compound, site of al-Aqsa mosque, on 28 September 2000. The protests in Israel that began in solidarity with the Palestinians in the Occupied Territories developed, and were directed shortly thereafter in opposition to the use of lethal force by the police against Palestinian citizens in Israel.

During the demonstrations in Israel, the police and special police sniper units killed 13 unarmed Palestinian citizens of Israel and injured hundreds more using live ammunition, rubber-coated steel bullets ("rubber bullets"), and tear gas. The firing of live ammunition and rubber bullets at protestors, including the use of snipers, are all prohibited by law and even violate internal police regulations. Most of the Palestinian citizens of Israel killed or seriously injured by the police were hit in the upper parts of the body - in the head or in the chest.

The killings took place in Umm al-Fahem, Jatt, Arrabe, Sakhnin, Nazareth, Kufr Kanna, and Kufr Manda on 1, 2, 3 and 8 October 2000. None of the individuals shot by the police posed a danger or threat to life to the police or to others. The 13 people killed were: Mohammed Ahmed Jabareen, 23, Umm al-Fahem; Ahmed Ibrahim Siyyam Jabareen, 18, Moawiya; Rami Hatem Ghara, 21, Jatt; Eyad Sobhi Lawabny, 26, Nazareth; Ala'a Khaled Nassar, 18, Arrabe; Asel Hassan Asleh, 17, Arrabe; Walid Abdul-Menem Abu Saleh, 21, Sakhnin; Emad Farraj Ghanaym, 25, Sakhnin; Misleh Hussein Abu Jarad, 19, Dir el-Balah, Gaza (killed in Umm al-Fahem, where he lived and worked); Ramez Abbas Bushnaq, 24, Kufr Manda; Mohammad Khamayseh, 19, Kufr Kanna; Omar Mohammad A'kkawi, 42, Nazareth; and Wissam Yazbak, 25, Nazareth.

The Establishment of the Commission. On 22 October 2000, then-Prime Minister Ehud Barak appointed a Committee of Examination to: "(a) examine the clashes with the security forces in the state that included the involvement of Israelis, Arabs and Jews, beginning from 29 September 2000; and (b) examine what happened in the above mentioned events and the factors that led to the occurrence of these events at that time." The families of the 13 Arab victims worked together with the Arab political leadership, non-governmental organizations, and academics to compel the government to dissolve the Committee of Examination and to establish an official Commission of Inquiry. There was grave concern that a Committee of Examination, lacking any legal powers or independence, would be unable to fully investigate the events that brought about the deaths of 13 Palestinian citizens of Israel and the injury of hundreds of others.

As a result of mounting pressure by the Palestinian community as well as concern about the upcoming elections and the "Arab vote," on 8 November 2000, the Israeli government decided to establish an official Commission of Inquiry in accordance with the Commissions of Inquiry Law - 1968. This law grants the Commission a wide range of powers to conduct the investigation, including the power to call and subpoena witnesses to appear and testify before it. On 15 November 2000, the Chief Justice of the Supreme Court, Aharon Barak, appointed three members to the official Commission of Inquiry: Supreme Court Justice Theodore Or (Chairperson); Professor Shimon Shamir of Tel Aviv University, a former Israeli ambassador to Egypt and Jordan; and Deputy President of the Nazareth District Court Judge Sahel Jarah. In June 2001, Judge Jarah resigned from his post due to health reasons and was replaced by Nazareth District Court Judge Hashim Khatib.

The Mandate of the Commission. Immediately following the establishment of the Commission, Adalah expressed its grave concern regarding the mandate that it was granted by the government, which differed considerably from the mandate afforded to the Committee of Examination. By Government Decision No. 2490, the Commission was mandated to investigate "the clashes beginning 29 September 2000 between security forces and Jewish and Arab citizens during which, *inter alia*, Israeli citizens were killed and injured." In addition, the mandate called for an investigation into "the causes leading to their occurrence [the clashes] at that time including the conduct of the inciters, organizers, participants in these events from all sectors, and the security forces." Adalah opposed the scope of the mandate, particularly the reference to "the conduct of the inciters," as it was clear that the term "inciters" would be used against Arab political leaders, which indeed occurred.

Appointment of Adalah. The families of the Arab victims, as well as the High Follow-up Committee for the Arab Citizens in Israel (comprised of Arab MKs, mayors, and other leaders), appointed Adalah to represent them before the Commission. Three lawyers - Riad Anes, Azmie Odeh, and Mahmoud Shahin - were also appointed by the High Follow-up Committee to work together with Adalah lawyers as members of the legal team.

Stage 1 of the Proceedings. The hearings of the Commission began on 19 February 2001 and concluded in January 2002. During the course of the year, 349 witnesses testified before the Commission, generating nearly

16,000 pages of protocols documenting the proceedings. Witnesses included political leaders, police commanders and officers, journalists, experts, and ordinary citizens who had witnessed the events. Adalah's legal team submitted a large quantity of evidentiary material to the Commission including over 100 affidavits of eyewitnesses, in addition to photographs, medical reports, bullet casings and maps of the areas where the killings of the 13 Palestinian citizens of Israel took place. Human rights organizations and lawyers both in Israel and abroad assisted Adalah in its work before the Commission.

In accordance with past Israeli practice regarding official commissions of inquiry, neither the families of the Arab victims nor Adalah had any legal standing before the Commission during this stage of the proceedings. Accordingly, during the course of these hearings, Adalah lawyers were not permitted to call or to cross-examine witnesses. Yet, by attending all of the Commission's hearings for an entire year and regularly intervening by submitting numerous legal motions challenging the procedures and the evidence, Adalah gained quasi-official status before the Commission.

The Warnings. On 27 February 2002, after one year of hearings, the Commission issued 14 letters of warning. Eleven of these warning letters were issued to high-ranking Israeli government political leaders, namely, former Prime Minister Ehud Barak and former Minister of Internal Security Shlomo Ben Ami; the top echelon of the police, former Police Commissioner Yehuda Vilk and former Northern District Commander Alik Ron; and other senior commanders and lower-ranking officers. The Commission also issued warning letters to three elected Arab representatives: MK Azmi Bishara, MK 'Abd al-Malek Dahamshe, and Sheikh Ra'ed Salah.

The warning letters advised the recipients that they are likely to be harmed by the inquiry or its results, or in other words, that the Commission will probably find them responsible, directly or indirectly, for their acts and/or omissions. Among the range of possible consequences for the warned individuals, in its final report, the Commission can recommend a reprimand, a dismissal from a post, or no future promotion or appointment to a high-ranking civil service post; and/or suggest that a disciplinary or criminal investigation be opened.

The warning letters to the three Arab public representatives alleged that between 1998-2000, and during the October 2000 events, they were "responsible for conveying messages supporting violence as a means to attain the goals of the Arab sector in Israel." The warning letter issued to Sheikh Ra'ed Salah also stated, among other allegations, that during 1998-2000, "he was responsible for conveying repeated messages denying the legitimacy of the existence of Israel and portrayed the state as an enemy."

On three separate occasions, Adalah sent letters challenging the mandate of the Commission, which enabled it to issue these warnings. Adalah did not receive a reply to these letters. On 12 March 2002, Adalah submitted a motion to the Commission to rescind the warning letters issued to the Arab leaders, but the motion was denied two days later. The Supreme Court of Israel subsequently rejected a petition filed by Adalah on behalf of the three Arab public representatives against the Commission, which also challenged the legality of the warnings.

One conclusion to be drawn from the warning letters issued by the Commission is that the Commission was unsuccessful in identifying the individual police officers who shot and killed most of the Palestinian citizens of Israel in October 2000. Only two of the individuals who received warning letters were directly linked to the killings. Indeed, the Commission deemed it appropriate, at least in these initial conclusions, to warn the then-Prime Minister and Minister of Internal Security as well as several police commanders and officers. However, the warnings issued against the three Arab elected representatives cast the blame for the killing of 13 Arab citizens of Israel and the injury of hundreds of others on the entire Arab population, including its political leadership, a blame that transforms the victims into guilty parties. The warnings issued to the Arab public representatives seem to be an artificial attempt to create a balance between the victim and the victimizer. Following the issuance of the warnings, Adalah published an ad in *Ha'aretz* (Hebrew) in 3/02 with the High Follow-up Committee and the Committee of the Bereaved Families entitled, "Don't Blame the Victim."

Stage 2 of the Proceedings. The second stage of the Commission's proceedings - the warnings hearings - began in June 2002 and concluded at the end of August 2002. During this stage, each of the warned individuals appeared before the Commission, represented by legal counsel. Each of them had the opportunity to call witnesses who were relevant to the warning issued and to testify a second time before the Commission to refute the initial allegations contained in the warning letter against them. Lawyers representing the other warned individuals also had the opportunity to cross-examine both the "warnees" and their witnesses. However, the right

to cross-examine was limited to the content of the warning given to the individual. These hearings were conducted like "mini-trials."

During this stage of the proceedings, Adalah represented MK Bishara, MK Dahamshe, and Sheikh Ra'ed Salah. At this stage, Adalah also requested that the families of the Palestinian citizens of Israel killed in October 2000 be granted standing and the opportunity to be represented before the Commission. The Commission denied this request. As a result of this ruling, Adalah was restricted in its cross-examination of witnesses to the issue of incitement, as charged against the Arab public representatives, and was precluded from investigating issues concerning the killings and injury of Arab citizens of Israel by the police in October 2000.

Throughout the proceedings, Adalah attempted to convey to the Commission the underlying social processes that have taken place and continue to take place within the Arab community in Israel. Adalah tried to widen the narrow and at times ahistorical and asociological view of the events that appeared to guide the questions of Commission's members. For example, the Commission did not investigate the issue of historical discrimination against the Arab minority in Israel in general (e.g., 1948 and military rule, land planning policy, and social and economic discrimination), or more specifically, the institutionalized racism of the police (e.g., as manifested by the numerous instances of police violence against Arab citizens of Israel, both before and during October 2000).

Therefore, Adalah solicited and submitted expert opinions to the Commission by sociologist Dr. Ahmad Sa'adi (Ben Gurion University); an Arabic-language specialist, Dr. Elias Atallah (Mar-Elias College); and political geographer Professor Oren Yiftachel (Ben Gurion University). During the warnings hearings, Adalah called three academic expert witnesses to testify before the Commission: Danny Rabinowitz, Professor of Anthropology and Sociology (Tel Aviv University); Nadim Rouhana, Professor of Sociology (Tel Aviv University) and Director of MADA - Arab Center for Applied Social Science Research; and Yoav Peled, Professor of Political Science (Tel Aviv University). The three academic experts adamantly rejected the Commission's claim that the October 2000 protest demonstrations were caused by alleged incitement to violence by the Arab elected representatives. They argued, each from his research and perspective, that the Arab leaders conducted themselves responsibly and democratically.

Adalah's Main Legal Filings Re: The Official Commission of Inquiry in 2002

Demanding that the Commission Hold Open Hearings During Testimonies of GSS Witnesses. A motion was filed to the Commission in 1/02 followed by a petition submitted to the Supreme Court in 2/02. The petition asked the Court to overturn the Commission's decision to hold *in camera* hearings during testimonies of GSS witnesses, arguing that closing the hearings violates the rights of the victims' families as well as the public's right to know. The petition further argued that as the Commission is investigating the behavior of security and intelligence officers, which greatly damaged the public's trust in state authorities, it is of fundamental importance that the Commission hold open hearings to fully disclose the testimony of GSS witnesses. Adalah emphasized that the findings of the Landau Commission (1987) as well as the State Comptroller's Report (2000) both indicate that the GSS has a history of giving false testimonies and obscuring the truth of events in which they played a role. Moreover, according to the testimony of other intelligence officers, the GSS had direct and primary involvement with the Arab minority in Israel before and during the October 2000 demonstrations. The petition was dismissed. The Court affirmed the Commission's decision to hold *in camera* hearings and to consider releasing portions of the GSS testimony at a later date, reasoning that this decision strikes a reasonable balance between the interests of state security and the public's right to know. The Commission held closed-door hearings to receive GSS testimonies and other GSS evidence on 31 January 2002 and 6 February 2002.

H.C. 950/02, *The Committee of the Victims' Families (October 2000) v. The Commission of Inquiry* (decision delivered 4 February 2002).

Motion to the Commission Requesting Specification of the Evidence Regarding the Warnings Issued Against the Three Arab Leaders. In 3/02, after the warnings were issued, Adalah submitted a motion to the Commission requesting that it detail and disclose the specific evidentiary material upon which it relied in issuing the warnings against MK Bishara, MK Dahamshe, and Sheikh Ra'ed Salah. Adalah emphasized the need for this specificity, in accordance with principles of fairness and due process, in order to properly represent the Arab leaders, as the warnings issued were general and covered a two-year period of time. In response, the Commission informed Adalah that all of the disclosed information with which it was provided - more than 4,000

exhibits – would be put at the disposal of the Arab public representatives. The Commission also stated in this decision, issued in 3/02, that, “the warning letters that were sent to each and every one of them [the three Arab public representatives] are based **exclusively on the disclosed materials**, which exist among the exhibits before the Commission.” (emphasis in the original). The Commission refused to provide a detailed list of the specific documents upon which it based its initial allegations in the warning letters.

Motion to the Commission Regarding the Disclosure of Materials. In 5/02, the Commission notified the warned Arab leaders that undisclosed GSS materials included issues, “which are relevant in order to discuss the personal responsibility of Arab public representatives - MK Azmi Bishara, MK ‘Abd al-Malek Dahamshe and Sheikh Ra’ed Salah ... with regard to the warnings they were issued.” The Commission then disclosed small parts of the testimonies in its possession given by Avi Dichter, the head of the GSS, and the GSS officer in charge of the northern district, as well as a few pages of GSS political analysis on the Arab minority in Israel. Following-up on this information, in 7/02 Adalah filed another motion to the Commission on behalf of the Arab representatives requesting the disclosure of materials relevant to the warnings issued to them that to date had been partially or totally undisclosed. Adalah argued that there is a clear contradiction between the Commission’s 3/02 and 5/02 decisions regarding the relevance of the undisclosed GSS materials to the warnings issued to the Arab public representatives. The Commission rejected this request. Regarding the contradiction, Justice Or wrote that: “There is no change in the position of the Commission regarding the basis for the warning letters or for any possible findings against the Arab warnees in the final report of the Commission. This basis was and will be the disclosed material only. Having said that, delivering the undisclosed materials to the requesters [the warned Arab leaders] was done due to the Commission’s position that it was necessary for the requesters’ defense. There is no contradiction between the two.”

Request for Standing for the Victims’ Families. In 6/02, Adalah, on behalf of the Arab victims’ families, filed a motion to the Commission requesting that they be granted standing and the opportunity to be represented during the warnings hearings. Adalah argued that the bereaved families have a direct and clear interest in the proceedings, and should be allowed, through their legal counsel, to question and cross-examine witnesses who may have been directly or indirectly responsible for their sons’ deaths. The motion relied on section 15 of the Commissions of Inquiry Law (COI Law); the principles of natural justice; and precedent in England, where two commissions of inquiry – The Lawrence Inquiry and The Bloody Sunday Inquiry – granted bereaved families standing in hearings. The Commission rejected this motion, primarily on the basis of efficiency: that granting standing to the families would significantly lengthen the time needed to conduct the proceedings. The consequence of the Commission’s decision, as noted previously, was that Adalah precluded from investigating issues concerning the killings and injury of Arab citizens of Israel by the police in October 2000.

Motion to the Commission to Summon Ariel Sharon and Rabbi Ovadia Yosef as Witnesses. In 7/02, in accordance with the procedures and on behalf of the Arab elected representatives who received warning letters, Adalah provided a witness list to the Commission. In this filing, Adalah requested that the Commission call Ariel Sharon and Rabbi Ovadia Yosef as witnesses. Adalah explained that Sharon’s testimony was relevant as his 28 September 2000 provocative visit to al-Haram al-Sharif compound, the site of al-Aqsa mosque, was the spark that led to the mass demonstrations in the Occupied Territories immediately thereafter, and then to the October 2000 protest demonstrations in Israel. As for Rabbi Yosef, Adalah also argued that the religious leader of Shas had made numerous racist statements against the Arab minority in Israel that could constitute “incitement,” and thus fall within the mandate of the Commission. The Commission rejected this motion, and therefore did not call either Sharon or Rabbi Yosef as witnesses.

Request to Cancel Commission’s Letters of Warning Against Arab Public Representatives. A motion was filed to the Commission in 3/02 followed by a petition to the Supreme Court in 7/02. The motion and petition were filed on behalf of MK ‘Abd al-Malek Dahamshe, MK Azmi Bishara, Sheikh Ra’ed Salah, the High Follow-up Committee for Arab Citizens in Israel, and the Committee of the Bereaved Families, seeking the cancellation of warnings against the Arab leaders on the grounds that they are discriminatory, illegal, and constituted a breach of power by the Commission. Adalah argued that the Commission exceeded the scope of its mandate, which is restricted by law to executive branch officials; investigated the issue of incitement in a discriminatory manner - questioning only Arab public representatives as to these matters and no Israeli Jewish rioters or Ariel Sharon about his provocative visit to al-Aqsa compound; that it lacked authority to ask many questions of the three Arab leaders regarding their political positions and posed these inquiries only to them; and that it relied on undisclosed and biased GSS and police intelligence materials as a basis for the warnings against the Arab elected

representatives, whereas no such information was provided and/or requested by the Commission concerning any Jewish figures.

Result: The petition was dismissed. The Supreme Court, in a 1 ½ page decision, held that: the petition was submitted too late; it should have been filed against the government and not the Commission, as it challenged the government-issued mandate; and the Commission would guarantee that the warnings were based solely on disclosed materials. In its judgment, the Court failed to address several of the arguments raised by Adalah in the petition, namely that: the Commission has the power to request a change in mandate and that although Adalah asked the Commission to exercise this power, it chose not to do so without explaining why; that the mandate was implemented in a discriminatory way; that the Commission itself issued several contradictory decisions regarding its use of undisclosed materials; and that the Commission will certainly be influenced by disclosed and undisclosed materials in the course of its investigation.

H.C. 6342/02, MK 'Abd al-Malek Dahamshe, et. al. v. The Commission of Inquiry (decision delivered 4 August 2002).

Concluding Arguments. In 12/02, Adalah, on behalf on MK Bishara, MK Dahamshe, and Sheikh Ra'ed Salah, submitted concluding arguments to the Commission. The 191-page submission discusses the main reasons for the October 2000 protest demonstrations, and details many of the acts and omissions of executive branch officials, both ministers and police commanders, leading up to and during the events, as well as the attempts made by these state authorities to cover up their failures. It also describes numerous instances of police violence against Palestinian citizens of Israel, both before and during October 2000, and refers to the central and hostile role of the GSS in setting state policy toward the Arab community. The concluding arguments also detail the numerous reasons why the warnings issued against the Arab public representatives are illegal, and specifically and comprehensively refute the allegations set forth by the Commission against each of the Arab leaders. The main argument advanced by Adalah in the submission is that the issuance of the warnings by the Commission against the three Arab leaders is illegal and factually inaccurate, and therefore, the content of the warnings should not be included in the final conclusions and recommendations of the Commission.

Update Note: Adalah published these concluding arguments in full, in Hebrew, in March 2003, with introductory remarks and other primary source documents, under the title "October 2000 – Law and Politics before the Or Commission." Adalah also published the key issues raised in the concluding arguments in English, in July 2003, under the title, "October 2000 – Law and Politics before the Or Commission of Inquiry. On 1 September 2003, the Commission issued its final report.

See Adalah's website at: <http://www.adalah.org/eng/commission> for a special web-report on the October 2000 protest demonstrations and the Or Commission of Inquiry.

B. Representation of Member of Knesset Dr. Azmi Bishara – The Indictments

On 7 November 2001, the Knesset voted to lift the immunity of Member of Knesset (MK) Dr. Azmi Bishara, head of the National Democratic Assembly (NDA) party. This move came at the request of Attorney General Elyakim Rubenstein in order to initiate criminal prosecutions against MK Bishara under the Prevention of Terrorism Ordinance (1948) and the Emergency Regulations (Foreign Travel) (1948).

The removal of MK Bishara's immunity is an unprecedented event in the history of Israeli politics. It is the first time that a MK has been stripped of his immunity because of political statements made in the course of performing his duties as an elected representative. MK Bishara was indicted in connection with political speeches he made at a public gathering in Umm al-Fahem, Israel on 5 June 2000 and at a memorial assembly for former President Hafez el-Assad in Syria on 10 June 2001. At these events, MK Bishara analyzed the factors that led to the end of the Israeli occupation of South Lebanon and spoke about the realities of the continued Israeli occupation of the Palestinian territories. He also spoke about the right to resist occupation, as recognized by international law ("Political Speeches Case"). MK Bishara was also indicted, along with two of his parliamentary assistants, in connection with a series of visits he organized, whereby elderly Palestinian citizens of Israel traveled to Syria to visit refugee relatives they had not seen since 1948 ("Syria Visits Case"). These family members had been forced to flee Palestine for Syria as refugees during the 1948 War, and were barred by the Israeli authorities from returning to their homes. Adalah and co-counsel Riad Anes, a private lawyer, are representing MK Bishara on both cases before a three-judge panel in the Magistrate Court in Natseret Illit.

For both the "Syria Visits Case" and the "Political Speeches Case," Adalah arranged for the attendance of international trial observers, prepared briefing papers and attended pre-hearing and post-hearing meetings with the groups, and organized in-court simultaneous translation. International trial observers included Members of the European Parliament; parliamentarians from national legislatures in Europe; and lawyers, judges and researchers representing the International Commission of Jurists – Sweden; the International Federation for Human Rights (FIDH); the Norwegian Bar Association, Human Rights Council; the Norwegian Association of Judges; the Norwegian Institute of Human Rights; the Human Rights League (LDH); and the Euro-Mediterranean Human Rights Network (EMHRN).

Syria Visits Case

MK Bishara and his parliamentary assistants were charged under Article 18(d) of the Emergency Regulations (Foreign Travel) (1948). According to the Attorney General, Article 18(d) prohibits any Israeli citizen from assisting others in traveling to states listed in Article 2A of the Prevention of Infiltration (Offences and Jurisdiction) Law (1954), which includes Syria, without first obtaining a permit from the Minister of Interior.

10 December 2001. The first court hearing was held. The Adalah legal defense team presented oral preliminary arguments for the dismissal of the indictment. The legal team argued that: (i) Article 17(c) of the Regulations state that the Regulations, in full, shall not apply to a person in possession of a diplomatic or service passport of the state of Israel. Given that MK Bishara has been in possession of a service passport since his election to the Knesset in 1996, prior to organizing the Syria visits, Article 17(c) makes it impossible to charge him with a violation of the Regulations. Thus, the indictment fails to state an offense; (ii) Since Article 17(c) exempts an MK from prosecution under the Regulations, the lifting of MK Bishara's immunity was itself invalid, as it was based on incorrect information. Further, the prosecutor may not amend the indictment and/or substitute the existing charge with a different one, because MK Bishara's immunity was lifted only for the specific charge of "assisting" under Article 18(d); (iii) Article 2A of the Prevention of Infiltration Law, referenced in Article 5 of the Regulations, lists several Arab countries (defined as "enemy states" in the law) where Israeli citizens are prohibited from traveling without a permit from the Minister of Interior. This law, which has not been amended to reflect recent agreements, still includes Egypt and Jordan. Therefore, the Article is misleading and unclear. Because of this ambiguity, the AG should never have initiated prosecution based on this law; and (iv) Visits to refugee relatives, after more than fifty years of separation, is a humanitarian issue. Prosecuting the case is itself contradictory to the principles of justice, and the Court should dismiss the indictment in the interests of justice.

The main argument advanced by the prosecution was that the exemption conferred on MKs by Article 17(c) applied only to the individual service passport holder, and did not allow the holder (the MK) to assist others to travel to so-called "enemy states."

17 February 2002. On behalf of MK Bishara, Adalah submitted preliminary arguments in writing to the Court.

9 April 2002. Adalah filed additional preliminary arguments for the dismissal of the indictment, raising the issue of immunity. Adalah argued that: (i) the Knesset's process in lifting MK Bishara's immunity had many legal defects; and (ii) assisting in the organization of these humanitarian visits, on behalf of his constituents, is part of fulfilling his role as an MK and falls within the substantive immunity granted to him as an MK. On this point, Adalah emphasized that MK Bishara represents a political party that emphasizes cultural identity as reflecting personal autonomy. Organizing visits of family members, who have not met since 1948, relates directly to their identity. Cultural identity is part of the NDA's party platform, according to which MK Bishara was elected. Therefore, assistance in organizing the visits to Syria, were made in the course of fulfilling his duty as an MK.

28 May 2002. Prosecutor filed a response to Adalah's arguments.

7 July 2002. Adalah filed a written response to the prosecutor's arguments.

13 August 2002. Prosecutor filed a written response to Adalah's arguments and Adalah subsequently replied.

Update Note:

1 April 2003. The Nazareth Magistrate Court unanimously decided to dismiss the indictment against MK Bishara on the ground that Article 17(c) exempts MKs from prosecution for this offense. The Court rejected Adalah's arguments regarding the vagueness and ambiguity of Article 5 of the Regulations, which references Article 2A of the Prevention of Infiltration Law, ruling that it should be obvious to Israeli citizens that traveling to Syria without a permit is prohibited. The Court also rejected Adalah's argument that the indictment should be dismissed in the interests of justice. While the Court agreed that the visits between family members who have been separated for more than fifty years is a humanitarian issue, the Court ruled that this argument could only be raised after conviction, as a mitigating circumstance at sentencing. The Court did not rule on the issue of immunity, finding that it was not necessary to reach this issue. The Court refused to dismiss the indictments pending against MK Bishara's two parliamentary assistants, who were also charged with this alleged offense, finding that the immunity of an MK does not protect his parliamentary assistants. The state has not filed an appeal against this ruling. In 6/03, Adalah sent a motion to the Attorney General requesting that he exercise his discretion and withdraw the indictment against MK Bishara's two parliamentary aides. Adalah argued that following the Magistrate Court's decision to dismiss the indictment against MK Bishara, there is a lack of public interest in pursuing the prosecution. To date, no response has been received from the Attorney General. The case is pending.

Criminal Case 5196/01, *The State of Israel v. Azmi Bishara, et. al.* (Mag. Ct, Natseret Illit, decision delivered 1 April 2003; case pending against parliamentary assistants).

Political Speeches Case

In this case, MK Bishara is charged with two counts of allegedly "supporting a terrorist organization," namely Hezbollah, based on political speeches he made, in violation of sections 4(a), 4(b) and 4(g) of the Prevention of Terrorism Ordinance (1948) ("PTO").

27 February 2002. The first day-long court hearing was held. In the opening statement, Adalah called the case against MK Bishara a political trial, the objective of which is to silence an elected representative of the Palestinian minority who strongly advocates for equality between peoples, their right for self-determination and the right of an occupied people to resist the violence of the occupation. Unable to successfully deal with MK Bishara's sophisticated challenge to the dominant ideology of the state, the state decided to criminalize him, to present him as an enemy, as a threat, and as an individual outside of the law. After the opening statement, the Adalah legal defense team presented oral preliminary arguments as to why the indictment against MK Bishara must be dismissed. The legal team argued that:

(i) The filing of the indictment was politically motivated. (a) The AG initially stated that there was no legal basis to indict MK Bishara and changed his position only after consultations with the Prime Minister's Office and the GSS. This process is flawed, as the AG is obligated to act independently, free of political influence; (b) The police assigned to investigate MK Bishara following his speech in Umm al-Fahem twice recommended that the case be closed. (c) In an academic article, the AG wrote that, "Anyone who calls for changing Israel to 'a state for all its

citizens' [a main component of MK Bishara's political party agenda] means in reality to change the Jewish character of the state. It is our duty to fight that, wholeheartedly, without compromise."

(ii) Even if all facts noted in the indictment are true, no crime was committed. According to Supreme Court precedent interpreting section 4(g) of the PTO, the text of the speeches, as noted in the indictment, do not *prima facie* constitute a crime. Voicing resistance to occupation is a legitimate political opinion and does not amount to sympathy with or supporting a terrorist organization.

(iii) The two political speeches delivered by MK Bishara fall within the scope of his parliamentary immunity. Article 17 of the Basic Law: The Knesset provides that MKs shall have immunity. Article 1(a) of the Law of Immunity of MKs, Their Rights and Their Duties (1951) provides that: "An MK shall not carry criminal or civil liability, and will be immune from any legal action, due to a vote, or an act – in the Knesset or outside it – if the vote, the expression, or the act was part of his role or in order to fulfill his role, as MK." MK Bishara's political speeches were made in fulfillment of his role as an MK and he cannot be criminally prosecuted for expressing opinions in accordance with the political party agenda of which he was elected. MK Bishara made identical speeches in the Knesset, for which no indictments were sought, prior to the delivery of the Umm al-Fahem and Syria speeches.

(iv) The submission of an indictment in this case violates a basic tenet of criminal law: the principle of legality. According to this principle, the AG may not prosecute any individual where the law is vague and unclear. The AG's change of position demonstrates that the PTO does not clearly prohibit MK Bishara's political speech.

9 June 2002. The second court hearing was held. The prosecutor responded to Adalah's preliminary arguments, arguing that: (1) MK Bishara's speeches were not legitimate expressions of political opinions, but a call to adopt terrorist methods against Israeli citizens and the Israeli government, in order to change government policies; (2) parliamentary immunity was not intended to protect MKs who make such speeches, therefore it was correct for MK Bishara's immunity to be lifted; and (3) the Magistrate Court does not have the jurisdiction to rule on the legality of removing MK Bishara's immunity by the Knesset. Adalah responded to the prosecutor's arguments and presented an expert opinion from Professor Ze'ev Maoz, the former Director of the Jaffee Center for Strategic Studies at Tel Aviv University and an expert on warfare. In Prof. Maoz's opinion, Hezbollah is a guerilla group and not a terrorist organization.

24 September 2002. Adalah submitted preliminary arguments in writing to the Court. Interights (London) provided an invaluable research memorandum on European Court of Human Rights' jurisprudence on freedom of expression to assist in the preparation of these arguments.

2 December 2002. The prosecutor responded in writing to Adalah's arguments.

Update Note: In 2/03, Adalah filed a response to prosecutor's arguments. Subsequent motions filed by the prosecutor and Adalah in 3/03 and 4/03 concerning the relevance of the Supreme Court's judgment in the elections disqualification cases to the criminal proceeding. The Supreme Court overturned the decisions of the Central Elections Committee, and thus, permitted MK Bishara and the NDA party to participate in the 2003 Knesset elections. To date, the Magistrate Court has not issued a decision on the issue of the dismissal of the indictment in this case.

Criminal Case 1087/02, *The State of Israel v. Azmi Bishara* (case pending).

In addition to representing MK Bishara before the Magistrate Court, Adalah also conducted the following activities, which are further discussed in this report's chapters on "International Advocacy" and "Supreme Court Litigation":

- Represented MK Bishara before the Committee on the Human Rights of Parliamentarians, Inter-Parliamentary Union (IPU), Geneva, Switzerland.
- Carried out a Legal Consultation and Advocacy Visit, Washington, DC and NYC, USA to discuss legal and media strategies concerning this representation with law professors and lawyers.
- Petitioned the Supreme Court to annul its prior ruling, delivered in 1999, concerning the National Democratic Party and the 1999 Knesset elections. The filing of this petition was important as statements contained in the Court's previous judgment were being used against MK Bishara in the context of the criminal cases.

All documentation related to MK Bishara's cases can be found at <http://www.adalah.org/eng/bishara.php>.

Related Legislative Developments

After the filing of the indictments against MK Bishara and while the criminal cases were pending in 2002, the Knesset passed a series of amendments to existing laws that impose new limitations on MKs and on political participation rights. These new laws institute a range of restrictions on freedom of movement, freedom of speech, and access to and participation in the political system, which most severely affect Palestinian citizens of Israel and their elected representatives. The new laws passed were:

Order for the Extension of the Validity of Emergency Regulations (Foreign Travel) (1948) (Amendment 7), 13 March 2002. This amendment removes the exemption for MKs to lawfully travel to "enemy states," as defined by Israeli law. Pursuant to the new law, MKs may no longer rely on their service passports to travel to these countries without prior permission; MKs must now obtain a permit from the Minister of Interior or the Prime Minister.

The Law of Political Parties (1992) (Amendment 12), 15 May 2002. Article 5 of this Law is titled "Limitations on Registering a Political Party." This law sets forth various ideological limitations on the registration rights of political parties, similar to Section 7 (A) of The Basic Law: The Knesset. The new amendment to Article 5 adds the following provision: that a political party that wishes to run for the Knesset elections will not be registered if its goals or actions, directly or indirectly, "support armed struggle of an enemy state or of a terror organization, against the State of Israel."

The Basic Law: The Knesset (1958) (Amendment 35), 15 May 2002. Section 7(A) of the Basic Law: The Knesset (added in 1985) is titled, "Prevention of participation in the elections." The law sets forth various ideological limitations on the ability of political parties to run in Knesset elections. In 2002, the Knesset enacted several amendments to Section 7(A). The most important changes in the law are that: (i) the provisions now apply not only to political party lists but also to individual candidates (subject to judicial review by the Supreme Court); and (ii) "support of armed struggle, of an enemy state or of a terrorist organization" was added to the list of prohibitions on participation. *This new law was used the basis for the Attorney General's unprecedented motion to disqualify the NDA party from participating in the 2003 Knesset elections. See "The Elections Disqualifications Cases," in this report.*

The Law of Election (1969) (Amendment 46), 15 May 2002. The new amendment to Section 57 of the Law of Elections 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." The main purpose of this amendment is to set complementary instructions for the implementation of Section 7(A) of the Basic Law: The Knesset.

Penal Law: Article 144D2 - Incitement to Racism, Violence and Terror (Amendment 66), 15 May 2002. The new law prohibits the publicizing of "a call for an act of violence or terrorism" or supporting such an act. An individual found guilty of this offense can be sentenced to up to five years imprisonment. The new law also criminalizes the possession of a publication "which is an incitement to violence or terrorism." The punishment for this offense is up to one year in prison.

The Law of Immunity of Members of Knesset: Their Rights and Their Duties (1951) (Amendment 29), 22 July 2002. The new amendment adds to the existing law that any statement or action, which "supports an armed struggle against the State of Israel," is deemed not to be an official part of an MK's duties. Statements or acts that fall outside of a MK's official duties are not protected by his/her parliamentary immunity, and thus may be criminally prosecuted.

C. Representation of Sheikh Ra'ed Salah – Ban on Foreign Travel

Sheikh Ra'ed Salah is one of the founders of the Islamic Movement in Israel, and is widely respected in the Islamic world as a spiritual leader. Sheikh Ra'ed Salah served as mayor of Umm al-Fahem from 1989 to 2001, before taking on the leadership of the Islamic Movement in Israel.

On 16 February 2002, the Minister of Interior, Eli Yishai, issued an order prohibiting Sheikh Ra'ed Salah from leaving the country for six months. In the order, Minister Yishai stated that upon review of the GSS recommendations of 15 February 2002, he was convinced that the security of the state would be at risk if Sheikh Ra'ed Salah travels abroad. Minister Yishai issued this total ban on foreign travel under Article 6 of the Emergency Regulations (Foreign Travel) (1948) (as amended in 1961).

Sheikh Ra'ed Salah was informed of this order on 17 February 2002 at Ben Gurion Airport while en route to Qatar, where he was to meet with representatives of academic institutions and charity groups. The order was based solely on secret evidence, and no hearing was granted to provide Sheikh Ra'ed Salah with the opportunity to challenge it prior to its issuance.

In 3/02, Adalah and Al Meezan Association for Human Rights sponsored an ad in *Ha'aretz* (Hebrew) entitled, "The Violation of Freedom of Movement and the Right to Due Process of Sheikh Ra'ed Salah." Other organizational signers were: the Arab Association for Human Rights, The Association for Civil Rights in Israel, HaMoked - Center for the Defence of the Individual, Mossawa, and Physicians for Human Rights-Israel. The NGOs emphasized that the Interior Minister's actions severely harm freedom of speech, the right of the national minority to political liberties, and the principle of equality, and called upon him to immediately rescind the order.

In 6/02, on behalf of Sheikh Ra'ed Salah, Adalah filed a petition with Al Meezan Association for Human Rights to the Supreme Court against the Minister of Interior asking the Court to declare the February 2002 travel restriction order unconstitutional and void. Adalah argued that the order violates Sheikh Ra'ed Salah's right to due process, his constitutional right to freedom of movement (Article 6 of the Basic Law: Human Dignity and Liberty (1992) provides that, "All persons are free to leave Israel"), and also his basic right to freedom of religion, as it prevents him from completing al-Umra pilgrimage to Mecca, Saudi Arabia. Al-Umra is one of the most important pilgrimages in Islam. Further, Adalah argued that the restriction on Sheikh Ra'ed Salah's movement is overbroad and unreasonable. It fails to satisfy the test of proportionality, as it completely denies his right to travel outside the country for a long period of time, regardless of the purpose of his travel.

At a hearing on the petition in mid-June 2002, the Court stated that, according to secret evidence, Sheikh Ra'ed Salah's travel constituted a threat to state security, although the Court would not identify the alleged danger. Adalah denied that Sheikh Ra'ed Salah had planned such meetings. The Court rejected the request for an injunction, and thus prohibited Sheikh Ra'ed Salah from traveling to Mecca. At the Court's instruction, Adalah then submitted an appeal to the Minister of Interior, which was rejected on 20 June 2002.

Result: In 7/02, the Supreme Court dismissed the petition, and again upheld the travel ban on Sheikh Ra'ed Salah. The Court ruled that, after considering the secret evidence presented by the GSS and the Ministry of Interior, he was convinced that there was a "frank and earnest fear," and even a "virtual certainty" that Sheikh Ra'ed Salah could "gravely endanger" state security if he were to leave the country. Further, the Court ruled that Sheikh Ra'ed Salah's right to a fair hearing had been "thoroughly exercised," although the Minister of Interior agreed to a "written hearing" (the appeal filed by Adalah to the Minister in 6/02), only after the Court held a hearing on the petition. The Court further noted that preventing an individual from leaving the country in order to perform a religious pilgrimage is an extremely grave violation of the freedom of religion. Nevertheless, the Court stated that since it is not necessary to perform al-Umra pilgrimage at a particular time of the year, Sheikh Ra'ed Salah would be able to perform the pilgrimage following the expiration of the movement restriction against him.

Note: The Minister of Interior repeatedly renewed the six-month travel ban, and it remained in effect until Sheikh Ra'ed Salah was detained in 5/03 (see below).

H.C. 4706/02, *Sheikh Ra'ed Salah, et. al. v. the Minister of Interior* (decision delivered on 17 July 2002).

All documentation related to this case, including the Supreme Court decision in English translation, can be found at <http://www.adalah.org/eng/salah.php>.

Additional Notes:

Closure Order Issued Against Islamic Movement Newspaper. In 12/02, Minister of Interior Eli Yishai issued a two-year closure order against the Arabic language weekly newspaper *Sawt Al-Haqq Wal-Hurriya*, which is affiliated with the Islamic Movement led by Sheikh Ra'ed Salah. The Minister acted pursuant to his authority under Article 19(2)(a) of the Press Ordinance (1933), a mandatory-era emergency powers law. Under Article 19, the Minister may suspend or entirely stop the publication of a newspaper for a period of time he deems appropriate if the newspaper "poses a danger to the public order." The Minister alleged that the newspaper, "justifies the use of violence and terror against Israelis, while extolling militancy and preaching continuously for people to die as saints." The closure order failed to provide any specific references to articles that could pose "a danger to the public order." Adalah sent a letter to the Interior Minister demanding that he rescind the closure order, as it violates the basic rights to freedom of speech, the press, and information, and empties these principles of any meaning. Al Meezan Association for Human Rights is representing the newspaper in this case.

Arrest and Indictments Filed Against Sheikh Ra'ed Salah and Islamic Movement Leaders. On 13 May 2003, approximately 1,000 police and security forces raided the homes of Islamic Movement members in Umm al-Fahem, and placed 15 members under arrest including Sheikh Ra'ed Salah. Scores of documents and computers were also confiscated from the offices of various charity organizations associated with the Islamic Movement. The arrests, undertaken like a military operation against citizens of the state, marked a further escalation in the government's policy against Arab leaders, as well as against social and political activists from among the Palestinian minority in Israel. The Islamic Movement in Israel is a legitimate political movement supported by tens of thousands of Palestinian citizens of Israel. The stated reason for these arrests was that members of the Islamic Movement are "supporting terror" by transferring funds to charity organizations associated with Hamas in the 1967 Occupied Territories.

Adalah sent a letter to the AG and State Attorney Edna Arbel requesting that they instruct the police to release Sheikh Ra'ed Salah and the other Islamic Movement leaders and activists, following their illegal arrest and detention. Adalah wrote that: "It appears that the reigning view in the corridors of power nowadays is that any help to Palestinian civilians suffering from the daily tribulations of the occupation regime is aiding terror." Further, Adalah added, it is unclear how humanitarian assistance to Palestinians in the Occupied Territories, suffering daily from the military occupation, can be considered a criminal action. While the government may express its dissatisfaction with this type of humanitarian aid, it does not have the right to use force to prevent it. The government's actions violate both the penal laws and the detention laws, which mandate that an arrest be supported by actual evidence regarding a specific, alleged offense.

On 24 June 2003, the state prosecutor submitted an indictment against Sheikh Ra'ed Salah and four other Islamic Movement members, including the mayor of Umm al-Fahem as well as two Arab humanitarian organizations. Sheikh Ra'ed Salah faces charges under the Prevention of Terrorism Ordinance (1948), Article 3 (membership in a terrorist organization), as well as numerous charges under the Defense (Emergency) Regulations (1945), in particular Regulation 85.1.a (membership in an illegal association), Regulation 85.1.b (holding a position in an unauthorized association), and 85.1.g (holding funds belonging to an illegal organization), and Regulation 73 (providing a service to an illegal association). Sheikh Ra'ed Salah and the other Islamic Movement members are detained without bond until the end of trial. They are being represented by private lawyers. Initial court hearings on the case begin in 9/03. For more information, see The Arab Association for Human Rights, "The Rights for Muslims to Take Part in Politics: Israel's Arrests and Trial of the Northern Islamic Movement," July 2003, available at: <http://www.arabhra.org>.

D. Emergency Agenda – Occupied Territories

At the end of March 2002, the Israeli army staged a massive military invasion of Palestinian cities and towns throughout the Occupied Territories. While the Israeli government's declared aim in carrying out this invasion was to "root out the terrorist infrastructure," these very heavy military attacks on the Palestinian population caused scores of civilian deaths, thousands of injuries, and widespread destruction of civilian property. In response to these events, Adalah adopted an emergency agenda, filing seven petitions and a writ of habeas corpus to the Supreme Court; submitting numerous pre-petitions to the Legal Advisor to the Israeli Army and the Attorney General; conducting international advocacy; and initiating local and international media outreach.

While such work is outside of Adalah's traditional mandate, Adalah believed that it was crucial to bring legal challenges in humanitarian cases against the Israeli army's actions and to raise local and international awareness about these gross violations of international human rights and humanitarian law committed against Palestinian society and civil society institutions in the 1967 Occupied Territories. As a Palestinian legal center that works before the Israeli courts, Adalah was in a unique position to be able to assist Palestinian human rights NGOs and the Palestinian people in the Occupied Territories, at a time of dire emergency and great need. In submitting these legal challenges, Adalah was aware of the slim chances that the Supreme Court would rule against the Israeli army while the hostilities were ongoing. However, the goals were to force some judicial review of the Israeli army's practices; to compel the state to respond to these claims (filing petitions was one of the only tools to get official information); to create a documented record of these events; and to generate local and international attention to these gross human rights violations, some of which constituted "war crimes" against Palestinian civilians.

This section focuses on Adalah's Supreme Court litigation undertaken as part of the organization's emergency agenda. Adalah's additional actions regarding the invasions, including international advocacy initiatives and media, are discussed in other sections of this report. These activities were conducted as part of a joint project with LAW – The Palestinian Society for the Protection of Human Rights and the Environment.

Supreme Court Petitions

Most of the petitions were brought before the Supreme Court during the heaviest military attacks by the Israeli army on Palestinian cities and towns. The factual basis for cases relied upon firsthand eyewitness accounts, media coverage of the events, and reports of local and international human rights organizations. The petitioners - affected individuals as well as Israeli and Palestinian human rights organizations - asked the Supreme Court to judicially review the army's actions in accordance with Israeli and international human rights and humanitarian law, in particular, the Geneva Convention (IV).

The Attorney General's Office (AGO), on behalf of the state and the Israeli army, submitted immediate, written responses to each of the petitions filed. The AGO did not deny the core facts as presented by the petitioners; in most cases, it admitted the facts, made no comment or disputed minor details. The main argument advanced by the AGO was that the Supreme Court could not intervene in matters relating to the army, especially at a time of ongoing fighting. In all cases, the AGO stated that the Israeli army faced serious difficulties during the operation due to Palestinian resistance. Also in all cases, the AGO presented statements of facts on behalf of the Israeli army, however, these statements were not supported by affidavits of army officers.

In each case, in response to the petitioners' request for a temporary injunction and/or the scheduling of an urgent hearing, the Supreme Court held immediate hearings on the petitions. However, the Court dismissed all of the petitions filed (except for one that is still pending), delivering short, written decisions of one to three pages on the same day that the petitions were heard. The Supreme Court did not address any of the legal arguments raised by the petitioners in-depth, nor did the Court provide any legal reasoning or legal analysis in its decisions. While in most cases, the Court accepted the petitioners' main facts as presented, at the same time, it did not examine or challenge the statements of facts presented by the AGO on behalf of the army. The Court cited several reasons to dismiss the petitions, namely that it cannot intervene in military operational decisions or that it accepted the army's contentions that its soldiers were making every possible effort to protect the Palestinian civilian population.

Denial of Medical Treatment for the Sick and Wounded, Access of Medical Personnel and the Right to Burial of the Dead. This petition was filed with LAW in 4/02 against the Commander of the Israeli Army in the West Bank. The petition argued that by refusing permission for medical personnel to enter the Jenin refugee camp and Nablus, the Israeli army prevented medical treatment and the evacuation of the sick, wounded and dead. Because of curfews, sieges and ongoing fighting, families were unable to properly bury their dead. The army's actions violate the rights of the wounded to bodily integrity, and of the deceased to dignity. The army's refusal to allow families to bury their dead expeditiously and in a dignified manner is disproportionate, an arbitrary act of revenge, and without justification. The petition was dismissed in 4/02. The Supreme Court stated that: "Our fighting forces are obliged to apply humanitarian rules which refer to treating the injured, in the hospitals and the bodies of the dead. Wrongful use of medical teams and of hospitals and ambulances obliges the army to act in order to prevent such activity; however, this by itself, does not allow a sweeping violation of humanitarian rules. In fact, this is also the declared position of the state."

H.C. 2941/02, *Badia Ra'ik Suabta and LAW v. Commander of the Israeli Army in the West Bank*; joined for decision by the Court with H.C. 2936/02, *Physicians for Human Rights-Israel v. Commander of the Israeli Army in the West Bank* (decision delivered 8 April 2002).

Demolition of Homes in the Jenin Refugee Camp. This petition was filed with LAW in 4/02 against the Commander of the Israeli Army in the West Bank. The petition argued that the army is demolishing homes in the Jenin refugee camp using bulldozers, shells fired from tanks, and missiles launched from helicopter gun ships, failing to give Palestinian residents any prior notice, the right to be heard, or any time to escape from their homes prior to the demolitions, resulting in the loss of life and injury. These actions resulted in loss of life and injury to Palestinian civilians, some of who were buried under the rubble of their homes. The army has a duty to respect the residents' rights to life, well-being and human dignity, and is prohibited from destroying civilian infrastructure and property in the camp. The state argued that the army "is making every effort to avoid hurting innocents," and that before demolishing homes, the army broadcast warnings to residents. State admitted that in some cases, bulldozers began demolishing houses even before the residents had left. Petition dismissed 4/02, with the Court accepting the state's claims.

H.C. 2977/02, *Adalah and LAW v. Commander of the Israeli Army in the West Bank* (decision delivered 9 April 2002).

Targeting of the Civilian Population in the West Bank by the Israeli Army. This petition was filed jointly with LAW and ACRI in 4/02 against the Commander of the Israeli Army in the West Bank and the Chief of Staff of the Israeli Army. The petition argued that the army has attacked numerous civilian targets throughout the West Bank, including houses, schools, roads, hospitals, churches, and mosques, as confirmed by media reports, eyewitness testimonies, and the army itself. It also argued that the assault on the civilian population, infrastructure and property and against the lives and bodies of civilians is unreasonable and disproportionate, and was carried out with excessive force. The petitioners sought an immediate end to the shelling and striking of civilians and civilian targets, as the army is prohibited from indiscriminately attacking against civilian targets. The Supreme Court accepted the army's response that it was making every effort to prevent and minimize harm to civilians. The petition was dismissed in 4/02.

H.C. 3022/02, *LAW, The Association for Civil Rights in Israel, and Adalah v. Commander of the Israeli Army in the West Bank, Yitzhak Eitan, and Chief of Staff of the Israeli Army, Shaul Mofaz* (decision delivered 10 April 2002).

Planned Burial of Palestinians in Mass and Anonymous Graves and Refusal to Allow Humanitarian Organizations to Enter the Jenin Refugee Camp. The petition was filed with LAW in 4/02 against the Commander of the Israeli Army in the West Bank. Based on media reports, it appears that the army was collecting dead bodies on the outskirts of the Jenin refugee camp with the intention of burying them in mass, anonymous or numbered graves. The army refused to allow the International Committee of the Red Cross (ICRC), the Palestine Red Crescent Society, or any other humanitarian agency to enter the camp for over nine days. The army's refusal to allow families to rapidly and respectfully bury their dead according to religious customs infringes on the rights of the deceased and their families, is disproportionate, and is an arbitrary act of revenge. The army's actions violate previous commitments made before the Court to avoid severe violations of international humanitarian law, and thus, as the army is in control of the Jenin camp, the army is in contempt of court. Supreme Court granted petitioners' motion for injunction to stop any burials. Supreme Court fixed

responsibility on the army, accompanied by the ICRC, for identifying and documenting the bodies; once this is done, they should be given to family members for burial as quickly as possible. The state admitted that the army began evacuating bodies without immediately contacting relevant Palestinian organizations. The petition is dismissed in 4/02.

H.C. 3116/02, *Adalah and LAW v. Commander of the Israeli Army in the West Bank*; joined for decision by the Court with H.C. 3114/02, *Mohammed Barakeh, Member of Knesset (MK) v. Minister of Defense, Benjamin Ben-Eliezer, et. al.* and H.C. 3115/02, *Ahmed Tibi, MK v. Prime Minister Ariel Sharon et. al.* (decision delivered 14 April 2002).

Challenging the Revocation of Press Credentials of a Palestinian Journalist. This petition was filed on behalf of Laila Odeh, a Palestinian journalist working with Abu Dhabi TV, and I'lam Media Center in 4/02 against the Director of the Government Press Office (GPO) challenging his decision to revoke Ms. Odeh's press credentials. The GPO alleged that Abu Dhabi TV was broadcasting false information about the Israeli army's actions in the Occupied Territories and inciting against Israel. Adalah argued that the GPO's decision violates Ms. Odeh's due process rights, as she was not afforded a hearing prior to the revocation, as well as the rights of freedom of the press, speech, information, and occupation (employment). In addition to revoking several journalists' press credentials, Adalah emphasized that the GPO and other authorities have also deported them, refused to issue them press cards, detained them, and denied them access to the Occupied Territories. As a result of filing the petition, the state agreed in 5/02 that Ms. Odeh could temporarily use her press card and that the GPO would hold a re-hearing on the case; the petition was withdrawn as part of this agreement. After a re-hearing, the GPO reinstated Ms. Odeh's press credentials in 6/02.

H.C. 2900/02, *Laila Odeh, et. al. v. Director of the Government Press Office* (petition withdrawn).

Demanding that Israeli army and GSS Reveal Location of Jenin Refugee Camp Detainee. A writ of habeas corpus was filed in 5/02 on behalf of a Palestinian resident of Jenin held for interrogation in an undisclosed location by the GSS. The army and the GSS refused to provide information to family members as to where he was being held or as to his condition. As a result of the filing of the writ, information was provided as to his current location, however, the state refused to reveal where he had been initially detained. The case was withdrawn in 5/02.

H.C. 3715/02, *Jamal Mustafa Khuel, et. al. v. Commander of the Israeli Army in the West Bank, et. al.* (petition withdrawn)

Seven Human Rights Organizations Demand that the Israeli Army Stop Using Palestinian Civilians as Human Shields. Filed by Adalah in its own name and on behalf of LAW, ACRI, Physicians for Human Rights-Israel (PHR-I), B'Tselem, The Public Committee Against Torture in Israel (PCATI) and HaMoked in 5/02 against the Commander of the Israeli Army in the West Bank; the Chief of Staff of the Israeli Army; the Minister of Defense; and the Prime Minister. The petitioners' argued that the army's use of Palestinian civilians as human shields and/or as hostages is inhumane treatment and violates the right to life, physical integrity, and dignity. The petitioners' further argued that this practice constituted a "grave breach" of the Geneva Convention (IV) and thus, amounted to a war crime. As a result of the filing of the petition, the army issued orders prohibiting this practice. In 8/02, after the death of a Palestinian young man used as a human shield by the Israeli army during the course of military operations, Adalah filed another motion for an injunction; an immediate injunction was issued prohibiting 'neighbor practice.' In 11/02, a motion was filed for contempt of court after evidence emerged that the army was continuing to use civilians as human shields. The state responded to the petition and motion for contempt in 12/02. The state also informed the Court that the army had adopted a new order called "prior warning" whereby Palestinian civilians could be used as "assistants," if they agree to the request and the commander in the field determines that there is no danger to the civilian.

Update Note: In 1/03, the Supreme Court limited the scope of the injunction, permitting the army to act in accordance with the new order. Petitioners' challenged the legality of the prior warning order, arguing that this practice is the same as using a civilian as a human shield; that international humanitarian law absolutely prohibits an occupying power from using civilians in the military operations of its forces; that all "assistance" is inherently dangerous; and that no Palestinian would voluntarily agree to assist an occupying army carrying out its operation. The state claims that the purpose and actual implementation of the "prior warning" order is humanitarian, aimed at

saving the lives of both Palestinians and Israeli soldiers. In 7/03, the Supreme Court refused to extend the scope of the injunction to include a prohibition on the use of “prior warning” practices. The Court ruled that it will deliver a final judgment at a future date, and that it may issue such a ruling with an expanded panel of justices.

H.C. 3799/02, *Adalah, et. al. v. Yitzhak Eitan, Commander of the Israeli Army in the West Bank, et. al.* (case pending).

Inhumane Treatment of Palestinian Detainees at Ansar III Detention Center. The petition was filed in 6/02 on behalf of seven Palestinian detainees and ten Palestinian and Israeli human rights organizations challenging the inhumane detention conditions of approximately 500 Palestinian detainees held at Ansar III Detention Center. Petitioners demanded that the Supreme Court intervene and order the Military Commander of Ansar III and the Minister of Defense to improve the conditions in the facility. Conditions in Ansar III failed to meet even minimum standards for detention under both Israeli and international law. The ten named NGO petitioners are: Adalah, LAW, HaMoked, B'Tselem, Addameer, Al Haq, Women's Center for Legal Aid and Counseling, Nadi el-Asseer, PCATI, and PHR-I. Detainees are held in tents open on all four sides, affording them no protection from the elements; they are not given proper beds; they are not provided with sufficient amounts of cold water and hot food; and they are denied sufficient supplies and facilities to maintain basic hygiene. The state responded to the petition in 9/02 claiming that it should be dismissed on the grounds that the conditions at the detention center were not unreasonable, and in fact, were similar to that of soldiers; and that while some improvements could be made, the matter was one of resources.

Result: The petition was dismissed in 12/02. The Supreme Court requested that the army improve certain conditions at Ansar III. At this time, the number of Palestinian detainees held at the facility had increased to 1,050. The Court noted that many of the individuals held at Ansar III are administrative detainees, and as such, should be held under conditions no worse than those afforded to other prisoners. The Court found that while initially the conditions at Ansar III were sub-standard, they had since been upgraded to meet or exceed these requirements. The Court also suggested that: (i) an administrative body should be established to deal with the detainees' day-to-day problems (e.g., food, clothes, etc.); and/or (ii) responsibility for the facility should be transferred from the army to the Prison Authority, which is more experienced in balancing questions of security and prisoners' needs.

H.C. 5591/02, *Hilal Yassen, et. al. v. Yuni Ben David, Military Commander of Ansar III, et. al.* (decision delivered 15 December 2002).

Adalah also joined two Supreme Court cases as a petitioner:

Challenging Inhumane Treatment and Detention Conditions of Over 1,400 Palestinians at Ofer Detention Camp. A petition was filed in 4/02 by HaMoked against the Commander of the Israeli army in the West Bank, in its own name and in the names of ACRI, Adalah, LAW, B'Tselem, LAW, Addameer, and Al-Haq. The petition demanded that the army observe minimum standards of treatment and provide humane, appropriate, and dignified conditions for the Palestinian detainees from the West Bank, both before they are transported to Ofer camp and while at the camp itself. Representatives of the human rights NGOs, including Adalah, also participated in a site visit to the camp, and prepared a report about the conditions in the facility. The report describes the lack of medical treatment, overcrowding, inadequate shelter and bedding, and poor sanitary conditions at the camp for the 700 detainees held at the camp. It also emphasized that the detainees received inadequate food and clothing, were subjected to brutal and humiliating treatment, and were denied all contact with the outside world. In 12/02, the Supreme Court dismissed the petition but made some operative suggestions to improve the conditions at Ofer. The Court held that: “Everything must be done to provide at least a minimal standard of detention conditions. This was not done in the temporary detention facilities ... Security needs – which must always be taken into account – did not justify the unacceptable conditions.”

H.C. 3278/02, *HaMoked, et. al. v. The Commander of the Israeli Army in the West Bank* (decision delivered 18 December 2002).

Challenging the Legality of Military Order 1500, Which Permits the Prolonged Incommunicado Detention of Palestinians. A petition was filed in 4/02 by ACRI against the Commander of the Israeli army in the West Bank, in ACRI's own name and in the names of HaMoked, B'Tselem, PHR-I, Adalah, LAW, and PCATI. The

petition challenged the legality of Military Order 1500, which permitted the detention of Palestinians by senior army and police officers for 18 days, and prohibited meetings with lawyers or judicial review during this period. It also permitted the confinement of detainees for eight days without contact with any authority. In 6/02, the state informed the Court that the army extended Military Order 1500 for an additional three months, with some amendments. Re-issued as Military Order 1505, the following changes were made: (i) The time limit for incommunicado detention was decreased from 18 days to 12 days; and (ii) the prohibition on meeting with lawyers was decreased from 18 days to 4 days.

Update Note: The Supreme Court issued a decision on the petition in 2/03. The Court ruled that holding detainees from 12-18 days without judicial review is illegal; however, the Court upheld the legality of the Order's provisions prohibiting detainees from meeting with lawyers for an initial period following detention. The Court rejected the army's claims that a lack of manpower necessitated extended detention without judicial review. Decision to take effect six-months after issuance.

H.C. 3239/02, *Iyad Mahmud Ishak Mirab, et. al. v. The Commander of the Israeli Army in the West Bank* (decision delivered 5 February 2003).

English translations of Supreme Court petitions prepared by Adalah, state responses, and Supreme Court decisions, as well as key reports published by local and international human rights organizations can be found at <http://www.adalah.org/eng/optagenda.php>. For information on pre-petitions filed, see "Press Releases" from 4/02, and for international advocacy initiatives, see "Int'l Advocacy," 2002 on Adalah's website.

E. The Elections Disqualification Cases

When the coalition government collapsed and new elections were called in November 2002, several right-wing legislators announced that they would seek to disqualify some or all of the Arab MKs and political parties from running in the 28 January 2003 elections. While the marginalization of the Arab political leadership is not a new phenomenon, since the beginning of al-Aqsa Intifada in late September 2000 and the October 2000 protest demonstrations in Israel, anti-Arab racism in Israeli society has worsened considerably.

Over the last three years, Arab political leaders have been subjected to numerous investigations into their activities and speech. MK Bishara was criminally indicted for his political speech, while the Knesset voted to limit the immunity of MK Ahmad Tibi, placing restrictions on his freedom of movement as an MK. New laws, mentioned previously (see "Representation of MK Azmi Bishara – The Indictments"), have also been passed to limit the political participation rights of the Palestinian minority in Israel. Significantly, an amendment was passed in May 2002 to Section 7A of the Basic Law: The Knesset, apparently targeting Arab political leaders. Section 7A provides that: "Any candidate list or *any single candidate* running for the Knesset elections will not participate in the election if the direct or indirect goals or actions of the candidate list or of the candidate is one of the following: (1) denial of the existence of the State of Israel as a Jewish and democratic state; (2) incitement to racism; or (3) *support of armed struggle, of an enemy state or of a terrorist organization against the State of Israel*" (emphasis added to note amendments).

In an unprecedented move, Attorney General Elyakim Rubenstein submitted a motion to the Central Elections Committee (CEC) in mid-12/02 to ban the National Democratic Assembly (NDA) party list, led by MK Azmi Bishara, from participating in the elections. Numerous other disqualification motions were filed by right-wing MKs and political parties against Arab MKs Azmi Bishara, 'Abd al-Malek Dahamshe (United Arab List), and Ahmad Tibi (Arab Movement for Renewal-Ta'al), as individual candidates, and against three political party lists – the NDA, the United Arab List, and the joint Democratic Front for Peace and Equality (Hadash)-Ta'al list. The motions to disqualify the Arab MKs and political party lists were submitted pursuant to Sections 7A (1) and (3), The Basic Law: The Knesset.

Adalah represented all of the Arab political leaders and political party lists before the CEC, and later, based on the CEC's decisions, represented the NDA party and MK Bishara as well as MK Tibi before the Supreme Court. On 27 December 2002, Adalah filed four sets of reply briefs to the CEC, challenging the disqualification motions. Extensive materials were prepared and submitted, amounting to almost 200,000 pages. Adalah also represented the political leaders and party lists at the CEC hearings held on 30-31 December 2002.

The CEC, chaired by Supreme Court Justice Mishael Heshin, was comprised of 41 representatives of all political parties in the last Knesset. There were eight representatives of the Labor party, six Likud, five Shas, three Meretz, two Shinui, two Center, two National Union, two United Torah Judaism, and one each for all of the remaining parties. Five representatives of the Arab political parties were members of the CEC. Contrary to CEC Chairman Justice Heshin, who voted against the disqualifications, the majority of CEC members voted to ban the NDA list and MK Bishara and MK Tibi from participating in the elections. The CEC approved the candidacy of MK 'Abd al-Malek Dahamshe, as well as the participation of the UAL and the Hadash-Ta'al list.

Update Note: A Supreme Court panel of 11 justices reviewed the disqualifications and heard Adalah's appeal against the decision to ban the NDA in early January 2003. On 9 January 2003, the Supreme Court overturned the decisions of the CEC, allowing the NDA and MK Bishara and MK Tibi to participate in the elections. The Supreme Court issued a substantive, written decision on these cases in 15 May 2003. There was widespread local and international media coverage of the elections disqualification cases, including the enormous threat posed to the political participation rights of Palestinian citizens of Israel.

Election Confirmation 11280/02, *Central Elections Committee v. Ahmed Tibi*; Election Confirmation 50/03, *Central Elections Committee v. Azmi Bishara*; Election Appeal 131/03, *Balad - The National Democratic Assembly v. the Central Elections Committee* (decisions delivered 9 January 2003 and 15 May 2003).

For the complete text of Adalah's four reply briefs submitted to the CEC in Hebrew, an English "Summary of Reply Briefs Submitted by Adalah on Behalf of Arab Members of Knesset and Political Party Lists to the Central Elections Committee for the 16th Knesset," issued in 1/03, and all other documentation concerning the elections disqualification cases, see <http://www.adalah.org/eng/elections2003.php>.

2. SUPREME COURT LITIGATION

Adalah filed **12** new petitions and appeals to the Supreme Court of Israel in 2002 and continued our representations on **10** cases pending from past years. Through these cases, Adalah seeks to achieve equal individual and collective rights for Palestinian citizens of Israel in the fields of land rights; civil and political rights; cultural, social and economic rights; religious rights; women's rights; and prisoners' rights.

Adalah obtained full or partial remedies requested from the Supreme Court in numerous cases filed and/or decided in 2002. Key judgments and favorable resolutions achieved in 2002 include:

- The Ministry of Interior's proposed expansion of the municipal jurisdiction of Omer, including the annexation of the unrecognized Arab villages of Em Batin and Al Maquman in the Naqab, was cancelled.
- At least one Arab MK was added to the Knesset's special Economic Committee, which initially excluded all Arab MKs by restricting membership to political parties with over five Knesset seats.
- The Supreme Court issued temporary injunctions preventing the deportation of 13 Palestinian spouses of Israeli citizens until the issuance of a final decision by the Court. Government Decision #1813 of May 2002, challenged in this petition, imposed a ban on family unification of any spouse of an Israeli citizen who is a resident of the Palestinian Authority or of Palestinian origin or descent.
- In an important judgment on a petition submitted by Adalah and ACRI in 1999, the Supreme Court ruled that mixed Arab-Jewish municipalities must include Arabic on all traffic, warning, and other informational signs in their jurisdictions.
- As a result of the filing of a petition by Adalah, the Director of Courts rescinded his instruction, given to all lower courts in Israel, that they could no longer charge the state for translation expenses of proceedings and documents in civil cases.
- Approximately 600 Arab Bedouin children living in the unrecognized villages in the Naqab began to benefit from the opening of an elementary school and a kindergarten and grade 1 school, demanded by Adalah and ACRI in a petition filed to the Supreme Court.
- The Ministry of Education (MOE) recommended the dismissal of Moshe Shohat, the head of the Bedouin Education Authority for sixteen years, who was in charge of managing the education system in the unrecognized villages in the Naqab. Adalah's petition called for a comprehensive examination of his management practices and his dismissal in light of racist statements that he made against the Bedouin; MOE agreed to his firing on the basis of financial mismanagement.
- Some water access points were added for Arab Bedouin citizens of Israel in five of the seven unrecognized villages in the Naqab, petitioners in the right to water case filed by Adalah.

The Supreme Court cases that led to these results, along with our other cases, are further discussed in this section. The section is organized thematically in accordance with Adalah's fields of interest. Each section provides summaries of new petitions and appeals filed in 2002, including their results and/or current status; key judgments obtained on petitions filed in previous years; and other pending petitions on which the organization worked in 2002. The status of each petition is updated through September 2003.

LAND RIGHTS

Challenging the Expansion of Omer Municipality's Jurisdiction to Encompass the Land of Arab Unrecognized Villages. A petition was filed in 9/00 against the Minister of Interior and others to stop the proposed expansion of Omer (a wealthy Jewish town in the Naqab (Negev)) from including two neighboring unrecognized Arab villages - Em Batin and Al Maquman - within its jurisdiction. The petition argued that the expansion plan was recommended without any consultation or community participation in planning by the affected Arab Bedouin citizens of Israel living in these unrecognized villages. Supreme Court issued an injunction freezing

the implementation of the plan. As a result of the filing of the petition, a new Committee was established to re-examine Omer's borders. In mid-2002, the Committee recommended that the disputed land be returned to its original, pre-expansion status, thus canceling the proposed annexation. The Minister then adopted the recommendations. Adalah requested that the Court compel the Minister to issue a writ abolishing the initial expansion plan for Omer. The Court refused this request, stating that the commitment of the Minister to adopt the Committee's recommendations sufficed. In 11/02, the petition was dismissed.

H.C. 6672/00, *Jazi Abu Kaf, et. al. v. Minister of the Interior, et. al.* (petition dismissed).

CIVIL AND POLITICAL RIGHTS

Political Participation

Request to Annul Prior Supreme Court Judgment Concerning the National Democratic Assembly Party (NDA) and the 1999 Knesset Elections. A petition and appeal were filed in 3/02 on behalf of MK Azmi Bishara and the NDA political party against Avner Erlich and others, seeking the extraordinary remedy of canceling a 1999 Supreme Court judgment. While the Supreme Court dismissed the original appeal seeking the NDA's disqualification from running in the 1999 Knesset elections, the Court noted in its ruling, *inter alia*, that MK Bishara and the NDA party had been "dangerously close to the line that should not be crossed." Adalah argued that the Court had no jurisdiction to discuss the merits of Erlich's appeal seeking to disqualify the NDA party from the 1999 national elections; that the proceedings were fundamentally unfair as MK Azmi Bishara was not afforded the right to be heard; and that the ruling is being used in a prejudicial manner in the context of the criminal cases pending against MK Bishara.

Update Note: In 2/03, in an unprecedented ruling, the Supreme Court issued a *de facto* cancellation of statements made in its 1999 decision. The Court stated that the statements contained in the Erlich case against MK Bishara and the NDA cannot be used against them, because of the undisputed facts that they were not present at the hearing, were not notified by the Court, and did not have the opportunity to explain or to respond to allegations against them. Based on the Court's statement, agreed upon by the parties, Adalah withdrew the petition. While the 1999 Supreme Court decision was not cancelled, the new judgment effectively deprives it of any legal authority. *The Supreme Court decision in English translation is available on our website.*

H.C. 2247/02, *MK Azmi Bishara, et. al. v. Avner Erlich, et. al.* (decision delivered on 17 February 2003)

Appeal to End Two-Month House Arrest of Political Protestor. An appeal was filed in 5/02 on behalf of Mr. Basil Amara, a 23-year-old Arab citizen of Israel, who was arrested and detained following a Land Day demonstration where he displayed a photo of Sheikh Hassan Nasrallah, the Secretary-General of Hezbollah. In 4/02, Mr. Amara was indicted for "supporting a terrorist organization" under the emergency powers Prevention of Terrorism Ordinance (1948). In 5/02, the Nazareth Magistrate Court ordered that Mr. Amara remain under house arrest until the end of trial; a subsequent appeal to the Nazareth District Court was rejected. Adalah argued before the Supreme Court that there is no legal cause for holding Mr. Amara under house arrest, and that the conditions of his arrest amount to preventive punishment and are disproportionate to the charges against him. In 6/02, the Supreme Court upheld the decisions of the lower courts, ruling that Mr. Amara could request that the Magistrate Court re-examine the conditions of his detention if the criminal trial continues for an extended period of time.

Detention Appeal 4285/02, *Basil Amara v. The State of Israel* (unpublished decision delivered on 11 June 2002).

Right for Arab Representation on the Knesset's Special Economic Committee. This petition was filed in 5/02 on behalf of three Arab political parties - The United Arab List, The National Arab Party and The National Democratic Assembly - challenging the Knesset's decision to establish a special Economic Committee, which excluded all Arab members of Knesset (MKs). Since the largest Arab political party - The United Arab List - has only three seats in the Knesset, the Knesset's decision to give seats to political parties with over five MKs effectively denied representation to the Arab minority in the decision-making process on crucial budgetary matters. The petitioners argued that the Knesset's decision violated Article 3 of the Basic Law: The Knesset, which enumerates the right for equality in election to the Knesset. As a result of the filing of the petition, within two

days, the special Economic Committee recommended that the Knesset add one Arab MK (and one alternate from the coalition) to the committee. Based on this settlement, Adalah withdrew the petition on 29 May 2002.

H.C. 4514/02, *The United Arab List, et. al. v. The Knesset Committee, et. al.* (petition withdrawn)

Family Unification

Seeking Cancellation of the Government's Discriminatory Decision to Prevent Family Unification for Palestinian Spouses of Israeli Citizens. A petition was filed in 5/02 on behalf of 57 individuals (14 families) against the Prime Minister, the Minister of Interior, and the Director of the Population Bureau challenging the government's new decision #1813 to prohibit family unification of any non-citizen spouse of an Israeli citizen who is a resident of the Palestinian Authority or of Palestinian origin or descent. Thousands of families, primarily Arab citizens of Israel, are affected by this decision. The petition argued that the "race-based" decision violates the petitioners' rights to dignity, equality and privacy; harms the petitioners' right to marry and found a family; and contradicts the Basic Law: Human Dignity and Liberty (1992), the Nationality Law (1952), and international human rights law. In 5/02 and 7/02, Court issued temporary injunctions prohibiting the deportation of 13 Palestinian spouses until the issuance of a final judgment. At the same time, the Supreme Court refused to accept a single group petition and instructed Adalah to submit separate petitions for each family in 8/02. The Court also issued an *order nisi* (an order to show cause). Adalah also submitted petitions on behalf of two additional families in 3/03.

Update Note: At a hearing in 7/03, the Court stated that the petitions raise a principle question that is disconnected from the legislative process that began following the submission of the petition, and has yet to be completed. The Court instructed the state to provide an update as to the legislative progress of the government's new proposed bill. The state committed to extend the residency permits of some of the petitioners. These cases are pending. Later in 7/03, the Knesset enacted a new law, similar to Government Decision #1813, prohibiting the granting of citizenship or residency status to Palestinians from the Occupied Territories married to Israeli citizens. Adalah filed a petition against this new law in 8/03.

H.C. 4608/02, *Awad, et. al. v. The Prime Minister of Israel, et. al.* (cases pending).

Freedom of Movement

Six-Month Foreign Travel Ban Imposed on Sheikh Ra'ed Salah is Unconstitutional (See also "Major Representations"). Sheikh Ra'ed Salah is the Head of the Islamic Movement in Israel. In 2/02, the Minister of Interior imposed a six-month foreign travel ban on Sheikh Ra'ed Salah pursuant to his powers under the Emergency Regulations (Foreign Travel) (1948). According to the Minister, Sheikh Ra'ed Salah's travel allegedly constituted a threat to state security. In 6/02, Adalah and Al Mezzan Center for Human Rights filed a petition on behalf of Sheikh Ra'ed Salah asking the Supreme Court to declare the Minister's restriction order unconstitutional and void. The order was based solely on secret evidence, and there was no opportunity to challenge the order or the Minister's claims prior to its issuance. Petitioners' argued that the restriction order violates Sheikh Ra'ed Salah's right to due process, and his rights to freedom of movement and freedom of religion, as it prevented his travel to Qatar as well as his travel to Mecca for al-Umra pilgrimage. The petition also argued that the restriction order is overbroad, unreasonable, and fails to satisfy the proportionality test.

Result: The Supreme Court dismissed the petition in 7/02. The Court ruled that the restriction order is not among the gravest of infringements on liberty or movement, nor is the six-month time period impossible to withstand. The Court state that preventing travel for religious pilgrimage is a grave violation of freedom of religion; however, the Court also held that this pilgrimage could be performed following the expiration of the travel restriction order. The Court also stated that it was convinced, based on secret evidence presented by the General Security Service and the Ministry of Interior, that Sheikh Ra'ed Salah could "gravely endanger" the security of the state if permitted to leave the country. The Court applied the "frank and earnest fear" test, despite the increased importance assigned to an individual's right of freedom of movement by the passage of the Basic Law: Human Dignity and Liberty (1992). The six-month travel restriction ban was renewed repeatedly, until Sheikh Ra'ed Salah was detained in 5/03 (See "The Representation of Sheikh Ra'ed Salah – Ban on Foreign Travel" in this report). *The Supreme Court decision in English translation is available on our website.*

H.C. 4706/02, *Sheikh Ra'ed Salah, et. al. v. the Minister of Interior* (decision delivered on 17 July 2002).

The Official Commission of Inquiry into the October 2000 Protest Demonstrations

Removing Northern District Police Commander Alik Ron from his Post. A petition was filed in 3/01 on behalf of the High Follow-Up Committee for Arab Citizens in Israel and 35 mayors of Arab towns and villages against the Minister of Internal Security, the Chief of Police, and the Police Commander of the Northern District, Alik Ron. The petition demanded Ron's permanent removal and/or suspension from his post. The petitioners' also requested an injunction suspending Ron from his command of the police forces during Land Day (30 March 2001) for fear that the October 2000 events could be repeated. Adalah provided abundant evidence of Ron's abuses of power and racist remarks against the Palestinian minority in Israel since 1998 to the Court. The Court rejected Adalah's request for an injunction. Ron subsequently went on study leave from his position, and Adalah withdrew the petition on 14 January 2002. In 2/02, Ron received a letter of warning from the official Commission of Inquiry.

Update Note: In 5/03, Ron retired from the police. The Or Commission recommended that in the future, Ron should not hold any command or administration position in the area of internal security.

H.C. 2431/01, *Mohammad Zidan, Chairperson of the High Follow-Up Committee for Arab Citizens in Israel, et. al. v. The Minister of Internal Security, et. al.* (petition withdrawn).

The following two case petitions were also noted in the "Major Representations" section of this report:

Demanding that the Commission Hold Open Hearings During Testimonies of GSS Witnesses. A motion was filed to the Commission in 1/02 followed by petition submitted to the Supreme Court in 2/02. The petition asked the Court to overturn the Commission's decision to hold *in camera* hearings during testimonies of GSS witnesses. Adalah argued that closing the hearings violates the rights of the victims' families as well as the public's right to know. Adalah further argued that as the Commission is investigating the behavior of security and intelligence officers, which greatly damaged the public's trust in state authorities, it is of fundamental importance that the Commission hold open hearings to fully disclose the testimony of GSS witnesses. Adalah emphasized that the findings of the Landau Commission (1987) as well as the State Comptroller's Report (2000) both indicate that the GSS has a history of giving false testimonies and obscuring the truth of events in which they played a role. Moreover, according to the testimony of other intelligence officers, the GSS had direct and primary involvement with the Arab minority in Israel before and during the October 2000 demonstrations. Petition dismissed. The Court affirmed the Commission's decision to hold *in camera* hearings and to consider releasing portions of the GSS testimony at a later date, reasoning that this decision strikes a reasonable balance between the interests of state security and the public's right to know. The Commission held closed-door hearings to receive GSS testimonies and other GSS evidence on 31 January 2002 and 6 February 2002.

H.C. 950/02, *The Committee of the Victims' Families (October 2000) v. The Commission of Inquiry* (decision delivered 4 February 2002).

Request to Cancel Commission's Letters of Warning Against Arab Public Representatives. A motion was filed to the Commission in 3/02 followed by a petition to the Supreme Court in 7/02. The motion and petition were filed on behalf of MK 'Abd al-Malek Dahamshe, MK Azmi Bishara, Sheik Ra'ed Salah, the High Follow-up Committee for Arab Citizens in Israel, and the Committee of the Bereaved Families, seeking the cancellation of warnings against the Arab leaders on the grounds that they are discriminatory, illegal, and constituted a breach of power by the Commission. Adalah argued that the Commission exceeded the scope of its mandate, which is restricted by law to executive branch officials; investigated the issue of incitement in a discriminatory manner - questioning only Arab public representatives as to these matters and no Israeli Jewish rioters or Ariel Sharon about his provocative visit to al-Aqsa compound; lacked authority to ask many questions of the three Arab leaders regarding their political positions and posed such inquiries only to them; and relied on undisclosed and biased GSS and police intelligence materials as a basis for the warnings against the Arab elected representatives, whereas no such information was provided and/or requested by the Commission concerning any Jewish figures.

Result: The petition was dismissed. The Supreme Court, in a 1 ½ page decision, held that: the petition was submitted too late; that it should have been filed against the government and not the Commission, as it challenged the government-issued mandate; and that the Commission would guarantee that the warnings were based solely on disclosed materials. In its judgment, the Court failed to address several of the arguments raised by Adalah in the petition, namely that: the Commission has the power to request a change in mandate and that

although Adalah asked the Commission to exercise this power, it chose not to do so without explanation; that the mandate was implemented in a discriminatory way; that the Commission itself issued several contradictory decisions regarding its use of undisclosed materials; and that the Commission will certainly be influenced by disclosed and undisclosed materials in the course of its investigation.

H.C. 6342/02, *MK 'Abd al-Malek Dahamshe, et. al. v. The Commission of Inquiry* (decision delivered 4 August 2002).

CULTURAL, SOCIAL AND ECONOMIC RIGHTS

Language Rights

Use of Arabic on Signs in Mixed Cities. A joint petition with the Association for Civil Rights in Israel (ACRI) was filed in 6/99 against the mixed Arab-Jewish cities of Tel Aviv-Jaffa, Ramle, Lod, Akka (Acre), and Natseret Illit, demanding that these municipalities add Arabic to all traffic, warning and other informational signs in their jurisdiction. At the time of the filing of the petition, the signs appeared only in Hebrew and/or in English. The petitioners' argued that since Arabic is an official language in Israel together with the Hebrew, according to Article 82 of the Palestine Order-in-Council (1922) the municipalities must post signs in at least both languages. This law, which was originally codified under the British Mandate, was later adopted by the Knesset and became part of Israeli law. By request of the Court, the Attorney General joined the case as a respondent, and submitted a legal opinion in which he defended the partial and discretionary use of Arabic by the municipalities, and emphasized the superior status of Hebrew, despite the identical official status of both languages.

Result: In 7/02, the Supreme Court ruled, 2-1, in favor of the petitioners' request. Chief Justice Aharon Barak and Justice Dalia Dorner delivered the majority opinion. Chief Justice Barak reasoned that the right to equality, the freedom to use one's own language, and the special status of the Arabic language as opposed to other minority languages in Israel, mandated that the mixed-city municipalities use Arabic on their informational signs. Justice Dorner, in reaching the same result, relied on Article 82 of the Palestine Order-in-Council (1922), namely, the official status of the Arabic language in Israel. Justice Mishael Heshin, who wrote a minority opinion, argued that the majority decision constitutes the recognition of collective rights for the Arab minority that finds no basis in Israeli law. In his opinion, this politically sensitive issue is non-justiciable, and the appropriate forum to deal with the matter is the Knesset. Despite this favorable ruling, the Court did not decide that the Arabic language is equal in status to the Hebrew language; in fact, all three justices stressed the superiority and dominance of the Hebrew language in Israel.

Following the Court's decision, in 8/02 and 9/02 the municipalities and the AG requested a second hearing. They claimed that an additional hearing on the case should be held as the Court's judgment sets forth a precedent as to the official status of the Arabic language and recognizes collective rights for the Arab minority in Israel.

Update Note: In 8/03, the Supreme Court delivered its decision on the request for a second hearing. In the four-page judgment, Justice Matza ruled that the Court's 2002 decision did not constitute a broad precedent regarding the status of the Arabic language in Israel. He explained that the decision applies only to the mixed-city municipalities, especially since the judgment of the majority - Justices Barak and Dorner - relied on different arguments and legal bases, although they arrived at the same outcome regarding the case. Further, Justice Matza stated that the denial of the request for a second hearing relates directly to the socio-political character of the issue, namely, that the requesters have "other venues," more suitable than the Supreme Court, to contend with this issue.

H.C. 4112/99, *Adalah, et. al. v. The Municipalities of Tel Aviv-Jaffa, et. al.* (decision delivered 25 July 2002; request for a second hearing by the municipalities and the AG denied on 14 August 2003).

Publication of Public Announcements in the Arabic Language Press: A petition was filed in 3/01 against Haifa Municipality demanding that it publish its public announcements in the Arabic language press. The petition argued that the Municipality's practice of only publishing informational and services ads in the Hebrew press discriminates against Arab citizens of Israel living in Haifa (about 14% of the city's population) concerning the receipt of vital information about the Municipality's services, disregards the safety of residents, and violates the law, which requires that all authorities in the country respect the status of Arabic as an official language of the

state. In 2/02, the Supreme Court asked the Attorney General to join the case as a respondent and to submit his opinion on the matter. In 6/02, after receiving the Attorney General's opinion, the Court decided to postpone hearings on the case until after it issues a ruling on H.C. 4112/99 (see above). The case is pending.

H.C. 1114/01, *Adalah, et. al. v. Haifa Municipality* (case pending).

Use of Arabic in Israeli Courts: A petition was filed in 1/02 against the Director of the Courts, the Minister of Justice and the Attorney General. The petition asked the Supreme Court to nullify instructions given by the Director of the Courts to the District, Magistrate and Labor Courts that they could no longer charge the state for translation expenses of proceedings and documents in civil cases. The petition argued that as Arabic is an official language of the state, this instruction is illegal. The petition also demanded: (i) that the state provide a professional translation system, which will ensure prompt and accessible translation services for Arabic speakers during civil court proceedings; (ii) the establishment of a new court rule by which litigants may submit supporting documents to the court in Arabic; and (iii) that judges be required to inform litigants of their right to use Arabic during proceedings. As a result of the filing of the petition, in 2/02, the Director of the Courts rescinded the instruction, and issued a new one that provided that only in cases of clear need and when there was no other way of managing the hearings, courts could charge the state for translation expenses.

Update Note: At a hearing in 6/03, Adalah argued that the new instruction does not answer the petitioner's demands, as it treats Arabic as a foreign language and not as an official language of the state. Adalah submitted affidavits from lawyers as well as court decisions proving that judges refuse to appoint translators and to charge these expenses to the state, but require the litigants in civil cases to pay for these services. The Supreme Court emphasized that in response to the petition, the Director of Courts changed the original instruction, and that if Adalah wishes to challenge the new instruction it must first address the respondent with its arguments. Based on this, Adalah withdrew the petition on 26 June 2003. In 7/03, Adalah sent a letter to the Director of Courts requesting that the new instruction be rescinded.

H.C. 792/02, *Adalah v. The Director of the Courts, et. al.* (petition withdrawn).

Education Rights

Establishment of Arab Schools in Beer Hadaj: A petition was filed in 7/00 with ACRI on behalf of the Regional Council for the Unrecognized Villages (RCUV), parents' committees, and residents of the unrecognized villages against the Minister of Education (MOE) and the Ramat HaNegev Regional Council demanding that schools be built for Arab Bedouin children, citizens of Israel. At the time of the filing of the petition, there were no Arab schools in the area and children living in the unrecognized villages had to travel for long distances (32-40 km) to reach their schools, resulting in low registration and attendance rates (e.g., 34% of children between the ages of 3-18 in Beer Hadaj did not attend school). As a result of the filing of the petition, the respondents' agreed to open an elementary school in Beer Hadaj and a kindergarten and first grade school in the Har HaNegev area. After numerous delays, MOE completed the schools in 2/02. In 9/02, in response to motions filed by the petitioners, respondents informed the Court that outstanding water supply and permit issues had been resolved to the satisfaction of the community. Petitioners agreed and withdrew the petition. About 600 Arab Bedouin children living in the unrecognized villages have begun to benefit from these new schools.

H.C. 5221/00, *Dahlala Abu Ghardud, et. al. v. Ramat HaNegev Regional Council, et. al.* (petition withdrawn).

Dismissal of the Head of Bedouin Education Authority (BEA). A petition was filed in 9/01 on behalf of 49 petitioners including parents' committees, pupils and NGOs against the Minister of Education (MOE) and the Head of the BEA, Mr. Moshe Shohat. The petition asked the Court to order the MOE to comprehensively examine Mr. Shohat's management practices, to dismiss him in light of racist statements that he made, and to publicly advertise for his replacement among the Arab community in the Naqab. In an interview with the *Jewish Week*, Mr. Shohat spoke of "bloodthirsty Bedouins who commit polygamy, have thirty children, and continue to expand their illegal settlements, taking over state land" and that, "In their culture, they take care of their needs outdoors. They don't even know how to flush a toilet." Mr. Shohat has served as the Head of the BEA for 16 years. The BEA is the agency appointed by the MOE to manage the education system in the unrecognized villages in the Naqab. After numerous hearings at which the MOE denied having the power to dismiss Mr. Shohat, and subsequent to

arguments filed by Adalah, in 7/02, the MOE stated that it intended to recommend the BEA head's dismissal on the basis of mismanagement, uncovered as a result of its investigation after the filing of the petition.

Update Note: In 3/03, the MOE Director General sent a letter ordering the dismissal of Mr. Shohat. The case is pending on the issue of job bid. According to media reports, an individual was appointed, without a bid, to replace Mr. Shohat. Adalah sent a letter to the Attorney General's office in 9/03 requesting information and the state's position on this matter.

H.C. 7383/01, *Megel el-Hawashleh, et. al. v. Minister of Education, et. al.* (case pending)

The Right to Water

The Right to Water in the Unrecognized Villages in the Naqab. A petition was filed in 5/01 in Adalah's name and on behalf of the RCUV, the Association of Forty, the Galilee Society, Physicians for Human Rights-Israel (PHR-I), and Arab Bedouin citizens of Israel living in Abu Tlul, Shahbi, Wadi el-Neem, Em Tnan, Em Batin and Drejat (population 750-4,000). The petitioners charged that the Minister of National Infrastructure, the Water Commissioner, the Israeli Water Company, the Minister of Agriculture and Environmental Protection, and the MOI maintained a policy of denying clean and accessible water to thousands of residents of these villages. At present, most residents of these unrecognized villages obtain water via improvised, plastic hose hook-ups or unhygienic metal containers, which transport the water from a single water point located on main roads quite far from their homes. This situation poses health risks to the residents (e.g., dehydration, dysentery, etc.) as well as numerous daily hardships caused by lack of access to water. The petitioners maintained that water, like any other public good, should be divided in an equal, fair and non-arbitrary manner.

The State initially claimed that the villages were "illegal settlements" and that residents were trespassers on state land, who were not entitled to water network connections. However, as a result of the filing of the petition, an inter-ministerial Water Committee was formed in 10/01 to examine the water situation in the villages. Adalah provided numerous submissions to the Water Committee detailing the particular water situation in each village.

Update Note: The petition was dismissed in 2/03, after the state reported that water access points had been added for five of the seven villages named in the petition. Adalah stressed that these measures are still not sufficient to meet the residents' needs or to achieve their rights, as distant water points and improvised access to water is not unlike the current situation. The appropriate solution is to connect the unrecognized villages to the water network. While entire unrecognized Arab villages are deprived of adequate access to water, individual Jewish Israeli families, living on vast, expansive ranches in the Naqab, are promptly provided with water access and other services.

H.C. 3586/01, *The Regional Council for Unrecognized Villages in the Naqab, et. al. v. The Minister of National Infrastructure, et.al.* (decision delivered 16 February 2003).

Economic Rights

Exclusion of Arab Towns from the National Priority List (NPL). A petition was filed in 5/98 against the Prime Minister challenging the government's arbitrary and discriminatory selection of towns for the NPL. The NPL classifies selected towns as "A" or "B" priority areas that receive substantial and lucrative benefits such as extra educational funding, additional mortgage grants and tax exemptions to residents, and tax breaks to local industries. The government assigns priority status almost exclusively to Jewish development and border towns, and to settlements in the 1967 Occupied Territories. Almost all severely socio-economically depressed Arab towns are excluded from "A" priority areas. The petition argued that current selection discriminates against Arab towns, and that clear socio-economic criteria should be set for selection. In 12/02, the Supreme Court ordered the state to explain why it should not cancel the decision excluding Arab towns from the NPL. The case is pending.

H.C. 2773/98, *The High Follow-up Committee on Arab Affairs, et. al. v. the Prime Minister of Israel* (case pending).

Unequal Distribution of Balance Grants to Jewish and Arab Municipalities. A petition was filed in 7/01 on behalf of the National Committee of Arab Mayors against the Ministry of Interior, the Ministry of Finance and the Prime Minister, seeking equal, objective criteria to be used by the government in distributing balance grants to municipalities. The budget deficits of Arab municipalities account for 45% of the total deficits of all municipalities in Israel. A complex method of calculating the distribution of these grants, which differs for Arab and Jewish towns, leads to discrimination in budget allocation. The State argued that, based on its calculations, there was no discrimination in the distribution method; on the contrary, there is a policy of affirmative action that awards Arab municipalities 21.5% of the budget grants, which is greater than the percentage of Arab citizens of Israel. Adalah rejected this claim and argued that in order to ensure a minimum of basic services for their residents, funding allotments for the Arab municipalities should be among the highest in the country, since these towns consistently rank lowest on all social and economic indices. The percentage-of-the-population criterion is not a relevant consideration in this instance; rather, distributions should be based on economic need. Additional arguments were submitted and hearings held in 2002. The Court issued an order nisi in 6/02. The case is pending.

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

Equal Access to Governmental "Ofeq" Program Funds to Alleviate High Unemployment. A petition was filed in 7/02 with the Tel Aviv University Law Clinic on behalf of the National Committee of Arab Mayors, the local councils of Kufr Manda, Ein Mahel and Kesife, and in Adalah's own name, against the Directors' Committee for Fighting Unemployment in Settlements with High Unemployment Rates, the government of Israel, and all of the ministries. Petitioners challenged the government's arbitrary and discriminatory exclusion of Arab municipalities from the NIS 1.44 billion (about US \$306 million) "Ofeq" program, which aims to improve areas where residents suffer from high unemployment rates and other low socio-economic living conditions. Of the 11 localities chosen for the program, only one is an Arab town, Tel el-Sebe (Tel Sheva), a government-planned town located in the Naqab with a population of 10,000. According to June 2002 official statistics, however, of the 25 towns with the highest unemployment rates in the country, all are Arab. Petitioners' argued that clear, objective criteria, based on socio-economic standards, should be used for selection. In 11/02, the Court issued an order nisi.

Update Note: In 3/03, in response to the petition, the state argued that Arab municipalities should not be included in the "Ofeq" program because they receive similar benefits under the government's Multi-Year Plan for Development of Arab-Sector Communities. However, the state admitted that it does not know exactly how much money each Arab town has received for which project or projects under the Multi-Year Plan. The case is pending.

H.C. 6488/02, *The National Committee of Arab Mayors, et. al. v. The Director's Committee for Fighting Unemployment in Settlements with High Unemployment Rates, et. al.* (case pending)

Discriminatory Budget Cuts in Child Allowances: A petition was filed in 6/02 on behalf of the National Committee for Arab Mayors and in Adalah's own name against Avraham Burg, then-Chair of the Knesset and others. The petition asked the Court to declare unconstitutional an amendment to the National Insurance Law (1995) that mandates a 4% cut in child allowances for all citizens of Israel, and an additional 20% cut for families in which neither parent served in the army. The majority of Arab citizens of Israel are exempt from and do not join the military, and thus would be most severely affected by these cuts. Adalah argued that the new law amounts to intentional discrimination against Arab citizens of Israel and violates the right to equality; that its effect would be to increase the already dramatic rate of poverty of Arab families and children; and that it is illegitimate in a democratic society to make the enjoyment of equal civil rights conditional on military service. In 10/02, the National Insurance Institute published new data indicating that the new law would affect 375,000 families, as opposed to its original calculation of 223,000. In response to this new information, Adalah requested and the Court issued an injunction to stay the implementation of the law.

Update Note: In 3/03, at a Supreme Court hearing on the case, Adalah challenged the Attorney General's claim that even if the budget cuts may be discriminatory, they are legitimate and proportional. In 5/03, the Knesset passed the government's new economic plan, which proposes cuts in child allowances for all families over a longer period time. The state subsequently submitted a motion to the Court arguing that the case should be dismissed, as the issue is moot. Adalah filed a response in 6/03 requesting that the Court issue a judgment on the petition arguing that the issue of using military service to discriminate against Arab citizens of Israel is a principal, constitutional matter that is still unresolved between the parties; and that it is an inappropriate time for the state to request dismissal of the case, as all Court hearings have concluded. Should the Court decide to deliver a ruling

on the case, Adalah also requested permission to submit closing arguments. To date, the Court has not ruled on this motion. The case is pending before an expanded panel of 13 justices.

H.C. 4822/02, *The National Committee of Arab Mayors and Adalah v. Avraham Burg, Chair of the Knesset, et. al.* (case pending).

RELIGIOUS RIGHTS

The Right to Pray in the Big Mosque. A petition was filed in 8/02 on behalf of the Association for Support and Defense of Bedouin Rights in Israel, the Islamic Committee in the Naqab, 23 Palestinian citizens of Israel, and in Adalah's own name against the Municipality of Beer el Sebe (Beer Sheva), the Development Authority, the Ministry of Religious Affairs, and the Minister of Science. The petition asked the Court to order the respondents to allow Muslims to pray in the Big Mosque in Beer el Sebe, the only mosque in the city. From 1906-1948, the building was used as a mosque; after the establishment of the State, the mosque was used as a court and prison, and later as a museum. Since 1991, it has stood empty and neglected. The petition argued that free access to the mosque is protected by freedom of religion and the right to dignity.

Update Note: At a hearing in 5/03, the state committed to establishing an inter-ministerial committee to examine the issue. The Court ordered the state to submit a notice within one month regarding the composition of the committee, the scope of its work, and a timetable as to when its recommendations will be issued. The state requested and received two postponements. The case is pending.

H.C. 7311/02, *Association for Support and Defense of Bedouin Rights in Israel, et. al. v. The Municipality of Beer Sheva, et. al.* (case pending).

WOMEN'S RIGHTS

Affirmative Action for Arab Citizens on Governmental Corporate Boards. A petition was filed in 12/01 in Adalah's name against the Prime Minister and several other ministers. The petition asked the Court to order the respondents to fully implement affirmative action policies as required by law. Amendment 6 to the Governmental Companies Law (1975), passed in 1993, requires equal representation for all women in Israel on the boards of directors of government-owned companies. Amendment 11 to this same law, passed in June 2000, states that: "In the board of directors of governmental companies, adequate representation will be given to the Arab population." Despite these laws and Supreme Court litigation by the Israel Women's Network in 1994, as of 12/02, less than 1% of sitting board members were Arab women citizens of Israel. Arab citizens, men and women, held only about 5.5% of board positions as of 12/02. While Israeli Jewish women's representation increased from 7% to 37% between 1994-2002, there was no increase in the representation of Arab women.

Update Note: In 4/03, the Court dismissed the petition. Despite the fact that Adalah included a list of over 70 qualified professionals in the petition, the Court agreed with the state's contention that it is difficult to find suitable Arab candidates for board positions. The Court ruled, however, that it is the responsibility of the government to seek out qualified Arab candidates for appointment to the boards of directors of governmental companies, and stated that it would be open to further petitions on the matter if the state does not fulfill its promises. Following the Court's decision, a coalition to increase the representation of Arab citizens of Israel, especially women, on the boards of directors of governmental companies was established. Coalition members include Adalah, ACRI, Sikkuy, Kian, and the Working Group for Equality and Personal Status Issues.

H.C. 10026/01, *Adalah v. Prime Minister, et. al.* (decision delivered 2 April 2003).

PRISONERS' RIGHTS

Appeal of Unjust Denial of Prisoner's Furlough Rights. An appeal was filed in 4/02 on behalf of Mr. Abd el-Rahim Masarweh, a Palestinian citizen of Israel who is currently incarcerated at Ayalon prison. Adalah requested that the Supreme Court reverse the District Court's decision to deny a furlough to Mr. Masarweh based on a drawing he produced in a prison art therapy class, secret evidence, and a reference to the security situation in

Israel. In the appeal, Adalah argued that the District Court erred in its 1/02 decision, as it failed to verify whether a mandated re-assessment of Mr. Masarweh's status was carried out, and that it relied solely on a secret intelligence document prepared over one year ago, without granting Mr. Masarweh the opportunity to defend himself against these allegations. Responding to the Supreme Court appeal, the state accepted that Mr. Masarweh be granted a furlough, however, the state imposed a condition of house arrest. The state also agreed that Mr. Masarweh be allowed to apply to the Prison Authority for re-classification, in order that he may participate in a rehabilitation program. Adalah argued that these remedies were insufficient; however, the Court accepted the state's position and rejected the appeal in 6/02.

Request for Appeal 3187/02, *Abd el-Rahim Masarweh v. Israel Prison Authority* (decision delivered on 6 June 2002; Takdin Elyon 2002(2), 1914).

3. LITIGATION BEFORE LOWER COURTS AND OTHER FORUMS

This section presents **key examples** of Adalah's work in 2002 in the areas of land planning, criminal justice, civil rights laws, and students' rights on campus. For both strategic and jurisdictional reasons, Adalah increasingly utilized the District and Magistrate Courts, as well as land planning committees and university tribunals, to represent individuals and groups in 2002.

LAND PLANNING

Adalah's work in the area of land planning includes legal representation before local, regional and national planning and building committees and, if relief is not obtained, before the courts. Until recently, issues of land planning have primarily been addressed through political means (e.g., in political closed-door forums and through community demonstrations) rather than by filing objections in the planning committees and cases before the courts. Adalah is attempting to complement this work by "legalizing" this process. Examples of Adalah's work and interventions in 2002 include:

Objection to TAMAM 2-9 Plan for the Northern District of Israel. Adalah, together with the Arab Center for Alternative Planning (ACAP), on behalf of 26 mayors of municipalities in the north, filed an objection to TAMAM 2-9, the Plan for the Northern District of Israel before the National Council for Building and Planning in 12/01. The plan refers to the Arab population as a problem by virtue of its very existence in the Northern District, and asks planners to find solutions to the problem. It also neglects the poor living conditions in the Arab towns and villages - failing to refer to the housing problems, overcrowding, lack of land available for building or public services - and sets forth town limits that exclude many of the towns' residences. The objection filed had three parts: (1) a challenge to the process of planning including the exclusion of Palestinian citizen representation on the plan's editorial committee, responsible for finalizing the plan, and the lack of proportional representation on the steering committee (two Palestinian citizens out of 30 members); (2) an analysis of government maps and the provision of updated maps; and (3) an analysis of the applicability of the plan. The objection noted that the government's maps of Arab villages and towns were completely inaccurate, with entire neighborhoods excluded from the maps. Clearly such exclusion of information and of input from the affected community substantively impacts the applicability of the plan.

Update Note: A hearing on the objection took place in 3/03. The Council has yet not responded.

Objection to Local Plan G-7337 on Behalf of 100 Farmers. In 1/02, the Nature Reserve and National Park Authority submitted Local Plan G-7337. The plan proposes the establishment of a nature reserve and national park on over 3200 acres (13,184 dunams) of land in the area of el-Malak Valley, south of Shafa'amr. The area surrounds four Arab towns, and the plan permits the confiscation of land from their owners. It also places restrictions on farmers and would limit the growth of Arab towns in the area. In 3/02, Adalah filed an objection to this plan, on behalf of 100 Arab farmers, to the District Planning and Building Committee (DPBC) in the Northern District. Adalah argued that the plan violates the right to property and freedom of occupation (employment). Adalah also argued that the plan fails to establish clear criteria for establishing a nature reserve in the area. Inexplicably, the proposed nature reserve excludes all the area's forests, which are located close to Jewish towns, and instead it is concentrated near and entirely surrounds Arab towns and includes most of the Arab-owned land that has been cultivated for than 100 years. No date has been set for the hearing on the objection.

CRIMINAL JUSTICE

In mid-2002, Adalah began its Criminal Justice Project. The three main issue areas of work are: police brutality/misconduct; the criminalization of political activity; and prisoners' rights.

Police Brutality/Misconduct

The Ministry of Justice Police Investigation Unit ("Mahash") is responsible for investigating complaints against the Israel police. For several years, Adalah has observed that Mahash frequently fails to investigate complaints, stalls inquiries for an extended period of time, and/or closes case files citing a lack of evidence or insufficient public interest in pursuing an investigation. Strikingly, according to official statistics, in 1999, of 6,144 cases opened, almost 3,000 cases were closed without investigation and over 1,250 were closed due to lack of evidence. In

Adalah's experience, this failure to adequately address complaints is particularly acute when the complaint comes from, or relates to, a Palestinian citizen of Israel. Because of Mahash's poor reputation, many victims chose, after an initial legal consultation, not to pursue complaints. Others find themselves subject to criminal indictment, particularly on the charge of assaulting police officers.

Adalah worked on **10** cases of police brutality/misconduct in 2002. Each case file was initiated by obtaining a detailed affidavit from the victim(s), a list of eyewitnesses, medical records, photographs, etc. This information was then submitted to Mahash as a formal complaint. In almost all cases, after an extended delay, Mahash refused to pursue an investigation into the complaints. By making follow-up inquiries, Adalah discovered that Mahash never interviewed the vast majority of eyewitnesses to a particular incident. In these cases, Adalah tried to gain access to Mahash case files in order to file appeals against decisions not to investigate, and to take further legal action against Mahash's policies. *Details concerning the cases are on file with Adalah.*

Criminalization of Political Activity

Representation of Land Day Political Protestors in the Naqab. In 3/02, six Arab Bedouin community leaders and activists were arrested and detained after Land Day demonstrations in the Naqab. Adalah represented several of these individuals at initial arraignment proceedings, extension of detention hearings, and on appeal regarding pre-indictment issues of detention. All of the individuals were detained for periods ranging from a few days to a few weeks, and were subsequently released under various restrictive conditions including full or partial home arrest, limitations on places and times of work and travel, and substantial bond. The six men were subsequently indicted for "supporting a terrorist organization" and incitement for alleged statements made in support of Hezbollah and Palestinian resistance organizations during the Land Day demonstration. Adalah accepted the post-indictment representation of three of the six protestors. In these criminal cases in 2002, Adalah filed numerous motions for re-consideration of release conditions; held several meetings with prosecutors for purposes of pre-trial discovery; and held numerous meetings with the individuals and their families, as well as with the Committee for the Defense of the Land Day Detainees.

Update Note: In 2003, Adalah represented the individuals at evidentiary hearings before the Magistrate Court in Beer el-Sebe. On Adalah's motion and after extended hearings, the Court ordered the suppression of videotape evidence proffered by the prosecution. The prosecutor subsequently filed a motion to re-open the motion to suppress hearing. The Court has not issued a ruling on that motion to date. The cases are pending.

Denial of Entry to Israel of International Human Rights Activists. In 2002, Israel began to implement a policy of denying entry to the country to human rights activists and solidarity delegations that came to Israel to meet with Palestinian organizations or to visit the Occupied Territories. Adalah intervened on scores of occasions seeking to gain entry for them. Several examples of our work in this regard follow:

- In 4/02, Adalah intervened on behalf of representatives of the International Federation for Human Rights (FIDH) and Ligue des Droits de l'Homme (LDH), who had traveled to Israel/Palestine to participate in a press conference regarding human rights violations resulting from the Israeli army's heavy military incursions in the Occupied Territories. Initially, the three were denied entry to Israel, despite having all necessary travel documents. As a result of Adalah's intervention, they were permitted to enter the country.
- Also in 4/02, Adalah submitted a pre-petition demanding that a five-person expert mission from the International Rehabilitation Council for Torture Victims (IRCT) be allowed to enter the country to provide critically-needed support to their organization's partners in Gaza and Ramallah. The team members were subjected to intensive questioning, personal searches, and confiscation of equipment upon arrival at the airport in Israel; two hours later, they were forced to leave the country. Adalah's request was ultimately denied by the Attorney General's office.
- In 7/02, Adalah filed an appeal to the Tel Aviv District Court on behalf of a representative of the Belgian-based International Cultural Youth Exchange (ICYE), seeking to annul the Ministry of Interior's order to deport her from the country. The representative had been invited to attend an event organized by the Association for Arab Youth, located in Haifa. Adalah reached an agreement with state attorney's office, whereby the representative would be allowed to enter Israel and the appeal was withdrawn.

Indictment and Prolonged House Arrest of a Political Demonstrator. As discussed in the section on “Supreme Court Litigation,” above, Mr. Basil Amara was arrested and subsequently indicted in 4/02 for displaying a photograph of Hezbollah leader Hassan Nasrallah at a Land Day demonstration in 3/02. The District Court and the Supreme Court rejected his appeals in 5/02 and 6/02, respectively, against the Magistrate Court’s decision to impose home arrest as a condition of his release from custody.

Adalah represented Mr. Amara at his criminal trial before the Nazareth Magistrate Court, beginning in 7/02. In the preliminary arguments, Adalah argued that the indictment was filed without the approval of the Attorney General and in violation of law; that while there are many instances of Jewish Israeli demonstrators displaying images of people defined by the state as terrorists, they were not indicted; and that simply displaying a photograph without any accompanying statements cannot be regarded as “supporting a terrorist organization,” under the Prevention of Terrorism Ordinance (1948). Adalah emphasized that the right to freedom of expression protected Mr. Amara’s act from criminal prosecution. The Court rejected these preliminary arguments.

In 10/02, Adalah filed another motion to Magistrate Court seeking re-consideration of Mr. Amara’s conditions of release, arguing that he had been under house arrest for seven months and that there was still no verdict in the case. The Court partially accepted Adalah’s motion, allowing Mr. Amara to leave his home to work, if he found employment, and in evenings during Ramadan. However, at all other times, he would be required to remain under full house arrest.

In 11/02, Mr. Amara was convicted of supporting a terrorist organization. In its decision, the Court ruled that while freedom of expression is very important, displaying a photograph of the Hezbollah leader, in and of itself, demonstrates support for a terrorist organization and cannot be permitted due to the security situation in the country.

Update Note: At a sentencing hearing in 2/03, Adalah argued that the Court should sentence Mr. Amara to time served, as his offense was minor and he had already spent 10 months under house arrest. Adalah further argued that no harm had been caused by Mr. Amara’s actions, and that he had no prior criminal record. The Court sentenced Mr. Amara to one month in prison and the payment of a fine of NIS 5,000; in 3/03 the prison time was changed to one-month community service. In 6/03, Adalah filed an appeal to the District Court against the conviction and the sentence, and a motion to stay the sentence. To date, the District Court has not issued a decision on the appeal; however, in 8/03, the Court agreed to stay the sentence pending the appeal’s outcome. This case raises an important, constitutional legal issue, namely, whether the “probable danger test,” which is the prevailing test in freedom of expression cases, should also apply to criminal cases in general, and under the Prevention of Terrorism Ordinance in particular. It is Adalah’s position that the probable danger test should apply, as the criminalization of the act of raising a picture alone violates individuals’ freedom of expression rights.

Prisoners’ Rights

Right to Freedom of Expression and Challenging the Solitary Confinement of Marwan Barghouti. In 4/02, Palestinian Legislative Council member Mr. Marwan Barghouti was arrested by the Israeli army in Ramallah, and subsequently indicted for numerous alleged security offenses. Since his arrest, Mr. Barghouti has been held in various Israeli prisons, and his criminal trial is underway in Tel Aviv District Court. Adalah is not representing Mr. Barghouti in the criminal case, but did represent him in other cases related to his conditions of confinement in 2002.

In 12/02, the Associated Press (AP) published what it claimed was an interview with Mr. Marwan Barghouti, given through one of his lawyers, Mr. Khader Shkirat (former General Director of LAW). Subsequently, the Israel Prison Authority placed Mr. Barghouti in solitary confinement for five days and banned all visits to him, on the grounds that he had violated internal orders of the prison that prohibit prisoners from giving interviews to the media without permission from prison authorities.

Adalah petitioned the Tel Aviv District Court on behalf of Mr. Barghouti in 12/02 seeking his release from solitary confinement, the lifting of the ban on visits, and the revocation of the Prison Authority’s regulations restricting freedom of expression rights. In the petition, Adalah argued that the internal orders should be voided, as they are not based on any existing law or statute, and thus, the Prison Authority lacks power to promulgate them; that the scope of these internal orders is sweeping and overbroad, and severely violates prisoners’ fundamental rights of

freedom of expression; that placing Mr. Barghouti in solitary confinement and banning visits to him for voicing his political beliefs amounts to double punishment, as the criminal indictment under which he is currently charged includes offenses that also relate to his political position against the occupation; and that the statements and viewpoint expressed by Mr. Barghouti in the interview are completely unrelated to maintaining order and security in the prison itself, which is the only area in which the Prison Authority may exercise its power to discipline. Adalah also emphasized that the punishment of solitary confinement for an alleged violation of these internal orders is disproportionately severe, and constitutes "cruel, inhumane and degrading treatment or punishment," which is prohibited by international human rights law. Further, Adalah argued that Mr. Barghouti did not commit a disciplinary infraction; he made comments to his attorney, who later repeated the comments to a journalist with AP. AP then presented the comments as an interview with Mr. Barghouti. The state argued that Mr. Barghouti's delivering of comments through his attorney without the permission of the prison constituted an interview.

The District Court dismissed the petition in 12/02, ruling that Mr. Barghouti had given an interview in violation of internal orders, and should be punished according to the Prisons Authority's regulations. The Court agreed that prisoners must be entitled to practice their freedom of speech, but not without the permission of the prison. The Court found that an unauthorized interview could incite violence within the prison and elsewhere, and could pose a threat to public security. The ruling did not specifically address the issue of Mr. Barghouti's period of solitary confinement, which had elapsed. Mr. Barghouti chose not to appeal the Court's ruling.

Right to Education for Political Prisoners. In 12/02, Adalah filed four prisoner's petitions to the Nazareth District Court on behalf of four political prisoners, against the Prison Authority and the Open University of Israel. The petitions sought to cancel a decision by the Prison Authority to prohibit political prisoners from registering for certain Open University courses, or from completing courses in which they were already registered. In the months preceding the submission of the petitions, the Prison Authority had begun to prevent political prisoners from enrolling in more than 24 correspondence courses offered by the Open University, deleted portions of course syllabi, and confiscated course materials. Titles of prohibited courses included "Between State and Society: The Sociology of Politics," "Democracy and National Security in Israel," and "Religion and Politics." The Prison Authority alleged that materials associated with the prohibited courses may lead to incitement, and may constitute a threat to the security of the prison and the state. In the four petitions, Adalah argued that: (i) While incarcerated, prisoners lose their right to liberty; however, all other rights, including the right to education and freedom of expression, should be protected to the greatest extent possible; (ii) the Prison Authority's policy, which is applied only to political prisoners, also violates their rights to equality. Although Supreme Court precedent allows political prisoners to be treated differently in some instances for security reasons, there is no basis for treating political prisoners differently in this instance, since no connection was shown between the prohibited academic courses and security considerations; and (iii) the education of prisoners plays a significant role in rehabilitation and in decreasing recidivism.

Update Note: In 2/03, the Prison Authority informed Adalah that it agrees to allow prisoners to take any courses of their choosing on the condition that they do not require supporting materials other than paper. The Prison Authority stated that it would reserve the right to ban specific courses if it could be demonstrated that the course constitutes a security risk. In 5/03, the Court accepted Adalah's petition. Noting that the Prison Authority had not yet implemented its 2/03 policy change, the Court ruled that political prisoners should be allowed to take courses in political science, humanities, and social sciences, and their learning materials returned within 30 days.

Right to Furloughs. Adalah submitted an appeal to the Nazareth District Court in 10/02, seeking permission for Mr. Mohammed Zayed to be granted a furlough to attend his daughter's wedding. Mr. Zayed, an Arab citizen of Israel, is classified by the Prison Authority as a "security prisoner," and is currently serving an indeterminate life sentence at Shata prison. In 2001, the Prison Authority had also denied Mr. Zayed's request for a furlough to attend his son's wedding. Both the District Court and the Supreme Court upheld that decision on appeal.

At a hearing before the District Court in 10/02, the Attorney General's representative rejected Adalah's request that Mr. Zayed be granted a furlough, and refused to consider other alternatives, such as a special visit by the bride and groom to the prison. The Attorney General's representative based her arguments on secret evidence, namely information provided by the General Security Service (GSS) and the Prison Authority. Adalah stressed that Mr. Zayed's record showed no disciplinary infractions during the past year, contradicting the information provided by the GSS and Prisons Authority. The Court dismissed Adalah's appeal ruling that allowing Mr. Zayed

to attend his daughter's wedding would present too great a security risk. Adalah did not submit an appeal to the Supreme Court because the wedding had already taken place by the time the District Court issued its ruling.

Unjust and Unduly Severe Sentence for Bereaved Father. In 3/01, at one of the opening hearings of the Or Commission of Inquiry, Mr. Abdel Menem Abu Saleh struck Police Sergeant Guy Raif after hearing surprise evidence that the latter had been involved in the killing of his son, Walid Abdel Menem Abu Saleh. Mr. Abu Saleh was subsequently indicted for assault. In 11/01, Adalah submitted a motion to the Attorney General requesting the dismissal of the indictment arguing that Mr. Abu Saleh attacked Sgt. Raif on impulse, without premeditation; that the case was exceptional, in that Mr. Abu Saleh had not been warned that evidence would be presented suggesting that Sgt. Raif had fired live rounds at his son; and that it was grievously unjust that there had been no criminal investigation into Sgt. Raif's conduct during the events of October 2000, while the father of one of the victims in those events was indicted. The Attorney General rejected the motion. Adalah represented Mr. Abu Saleh at trial, and he was convicted in 5/02. In 7/02, he was sentenced to two months of community service. The state appealed the sentence to the District Court in 12/02, seeking a six-month community service term. The District Court granted the state's appeal, and increased Mr. Abu Saleh's community service term to six months.

Update Note: In 1/03, Adalah filed a motion to the Supreme Court for permission to appeal against the District Court's erroneous decision to increase Mr. Abu Saleh's sentence. One of the main legal arguments raised by Adalah on appeal was that despite the fact that an appeal by the state had already been heard in the case, Mr. Abu Saleh had not yet exercised his right of appeal, and thus, the Supreme Court should hear it. This fundamental due process right of appeal, Adalah argued, is also a constitutional right, and follows from the Basic Law: Human Dignity and Liberty (1992), as well as Supreme Court precedent. The Supreme Court rejected the motion. In its decision, issued in 1/03, the Court did not address the issue of Mr. Abu Saleh's constitutional right of appeal and ignored the special circumstances of the case, contending that he had been given an adequate opportunity to present his arguments at hearings before the lower courts.

CIVIL RIGHTS LAWS

Six Arab Youths Sue Beach in Tiberias for Racial Discrimination. In 3/02, Adalah filed a lawsuit in the Tiberias Magistrate Court on behalf of six young men and its own name against Livnon Beach on the Sea of Galilee, Tiberias for racial discrimination. In the lawsuit, the plaintiffs' charge that in 5/01 they were prevented from entering the beach by the manager, who told them that he has a policy of admitting Arab men only when accompanied by their spouses or families. The lawsuit is based on the newly enacted Law of Prohibition of Discrimination in Products and Services and in Entry to Entertainment and Public Facilities (2000), which prohibits, *inter alia*, discrimination in admission to public facilities on the basis of race, religion or religious-group identification, nationality, gender, sexual orientation, political affiliation, familial status or disability. Adalah joined the case as a plaintiff in the belief that it will set a precedent for cases of discrimination brought by Palestinian citizens in other public places in Israel; it is the first lawsuit challenging discrimination on the basis of nationality under this statute. The plaintiffs charge that, "the prevention of their entrance to the beach based on their nationality badly injured their dignity and caused humiliation and contempt for them as human beings and as Arab citizens of the state ... The harsh undermining of the plaintiffs' status, their personalities and their ability to exercise their wills to enjoy themselves in a public place, based on their national affiliation, reinforces the stereotypes against their minority group and sends a clear message that this group is inferior." The plaintiffs seek a total of NIS 300,000 in compensatory damages for mental suffering, the maximum relief afforded by the law, and the publication of an apology in newspapers. The case is pending.

CULTURAL, SOCIAL AND ECONOMIC RIGHTS

Education Rights

Demanding the Cancellation of Student's Suspension from Safed College. Ms. Yassera Bakri, an Arab citizen of Israel from the Galilee, completed two years of study in Social Work and Arabic at Safed College. In 8/02, Ms. Bakri and her friend rode on Bus #361; they disembarked from the bus shortly before a bomber, who sat next to Ms. Bakri on the bus, blew it up. The bombing resulted in the deaths and injuries of passengers. Ms. Bakri was indicted for failure to prevent a crime; private counsel represented her in the criminal case. In 9/02, the Administrative Committee (AC) of Safed College decided to temporarily suspend her. The grounds for suspension were: (i) getting off the bus with knowledge that "something bad was going to happen"; (ii) allowing her to study at

the College would lead to demonstrations on campus and the disruption of studies; and (iii) her behavior harmed the dignity of the institution and public morality. The Disciplinary Code of Bar Ilan University ("the Code") governs administrative practices at Safed College. Adalah represented Ms. Bakri before the Disciplinary Committees of Safed College, and filed appeals on her behalf before the Nazareth District Court.

Before the Disciplinary Committee (DC), in 10/02, Adalah argued that: (i) the AC lacked authority to suspend her. According to the Code, only the DC has the power to make such a decision; (ii) the AC did not afford Ms. Bakri a hearing prior to making its decision. Under the Code, the DC must provide students with a hearing, and thus, Ms. Bakri's right to due process was violated; (iii) the DC has no authority to hear or to decide upon the matters raised in the complaint. The Code states that the College may only adjudicate matters relating to academic infractions; the complaint filed against Ms. Bakri does not set forth any academic violation as grounds for her suspension; (iv) the complaint and decision sets forth no facts that constitute a violation of the Code. Further, Ms. Bakri adamantly denies the criminal charge and is presumed innocent until proven guilty; (v) the general bad atmosphere toward Arab students on campus and the possibility of public disorder are not appropriate reasons to suspend a student; and (vi) the AC did not afford appropriate weight to Ms. Bakri's rights to education and future employment.

As the DC did not take immediate action, in 12/02, Adalah filed two petitions before the Nazareth District Court on behalf of Ms. Bakri. The first petition sought a declaratory judgment from the Court that the College's decision to suspend her is invalid, based on the arguments raised before the DC. Together with this petition, Adalah filed a motion for a temporary injunction, seeking an order to allow Ms. Bakri to resume her studies. The second petition sought a declaratory judgment from the Court that Article 11D of the Code is invalid. This article states that students have no right to counsel in disciplinary proceedings. Adalah argued that the right to counsel is part of the right to fair trial, both of which are universally recognized rights, and implicitly protected by the Basic Law: Human Dignity and Freedom. Further, Adalah argued that because Ms. Bakri has a criminal case pending against her, she must be represented by counsel in the DC in order to guarantee her right to be protected from self-incrimination. Following this petition, Safed College agreed that Ms. Bakri could be represented in the disciplinary proceedings against her.

Update Note: In 2/03, the DC of Safed College upheld the decision of the AC to suspend Ms. Bakri. In 3/03, the Appeals Committee of Bar Ilan University accepted Adalah's appeal against the DC's decision on behalf of Ms. Bakri. The Appeals Committee ruled that the DC failed to prove that Ms. Bakri violated the Code: the pending indictment does not constitute proof of a Code violation and the DC did not cite any other evidence. It also ruled that public disorder resulting from the presence of a student on campus does not mean that a student violated the Code.

II. INTERNATIONAL ADVOCACY

Adalah engaged in a wide range of international advocacy initiatives in 2002. With this work, Adalah attempts to increase pressure on the Israeli government to abide by its international human rights treaty obligations and agreements, and to raise awareness in the international community as to the institutionalized discrimination against Palestinian citizens of Israel.

In 2002, Adalah worked before the United Nations, the European Union, and the Inter-Parliamentary Union. Adalah also maintained close contacts with foreign embassy representatives in Israel by attending and holding briefings for them, participating in numerous one-on-one meetings, and providing information (e.g., press packages, materials for human rights reporting to their national governments, etc.).

Throughout the year, Adalah hosted numerous international visiting delegations including: The National Lawyers Guild; lawyers from the Belfast-based law firm of Madden & Finucane (who represent the family members of nine individuals killed before the Bloody Sunday Tribunal of Inquiry); the American Friends Service Committee; Canadian human rights and criminal defense lawyers; Paul Steven Miller, Commissioner of the US Equal Employment Opportunity Commission; and European lawyers and lobbyists. Adalah also maintained contacts with professors at law schools based in the US and Europe, who provided legal consultation, case materials, and connections with students for legal research and internships with Adalah.

Adalah cooperated with international human rights NGO partners and regional networks for many of our international interventions. Adalah also provided these groups with legal information and analysis for their reports and campaigns; hosted delegations and observer missions; facilitated the work of field researchers; and participated in and presented at international NGO training courses and conferences. Our main international human rights NGO partners include Amnesty International, Human Rights Watch, International Federation for Human Rights (FIDH), the Euro-Mediterranean Human Rights Network, and the Minority Rights Group.

Within these broad activities and achievements, some of Adalah's major initiatives included:

United Nations

Submission to the Office of the High Commissioner for Human Rights (OHCHR). In April 2002, Adalah submitted petitions, state responses and Supreme Court decisions on cases brought by Adalah, LAW and other Palestinian and Israeli human rights NGOs, challenging violations of international human rights and humanitarian law by the Israeli army during its March-April 2002 military attacks on the Occupied Palestinian Territories (OPTs). Mrs. Mary Robinson, the UN High Commissioner for Human Rights, subsequently issued a report on the human rights situation in the OPTs, which stressed that the Israeli army must end its military operations, and that peace and stability in the region can only be achieved on the basis of international human rights and humanitarian law ("Report of the United Nations High Commissioner for Human Rights and Follow-Up to the World Conference on Human Rights," E/CN.4/2002/184, 24 April 2002). Mrs. Robinson cited Adalah as a source of information in her report.

Report to the United Nations Secretary-General on Petitions Filed by Adalah and LAW to the Supreme Court Concerning the Israeli Military Attacks in the Occupied Territories, April-May 2002. In May 2002, Adalah prepared and submitted this report with LAW and the Palestinian Centre for Human Rights in response to a UN General Assembly resolution of 5/02, calling on the Secretary-General to report on recent events in Jenin and other Palestinian cities using all available resources and information. The Secretary-General presented his report to the General Assembly on 1 August 2002 ("Report of the Secretary-General prepared pursuant to General Assembly resolution ES-10/10 (Report on Jenin)"). Although the Secretary-General used some of the information provided, he did not cite the submitting organizations. See report "Petitions Filed by Adalah and LAW to the Supreme Court of Israel April-May 2002," available on our website.

Testimony Before the UN Special Committee to Investigate Israeli Practices Affecting Human Rights of the Palestinian People, Amman, Jordan. In June 2002, Adalah General Director Hassan Jabareen, Staff Attorney Suhad Bishara and Board member Salam Zubi provided information about recent events to this UN Special Committee. Mr. Jabareen provided a general overview of the current legal situation of the Palestinians in the OPTs and Palestinian citizens in Israel. Ms. Bishara presented the Supreme Court petitions filed by Adalah

concerning the March-April 2002 Israeli military attacks on the Occupied Territories, and analyzed the Court's decisions in these cases. Mr. Zubi presented a detailed map and photographs documenting the extensive property damage caused by the Israeli army in April of 2002 in the Jenin refugee camp. Adalah's representatives also provided extensive documentation about our work to this Committee. [Participation supported by the United Nations]

United Nations Human Rights Committee (UNHRC). In October 2002, Adalah submitted a 16-page report to the UNHRC entitled "Recent Developments - The Rights of the Palestinian Minority in Israel." The report was written for the UNHRC's Country Report Task Force - Israel in developing its *List of Issues* in advance of its planned review of Israel's 2nd Periodic Report on the state's implementation of the International Covenant on Civil and Political Rights (ICCPR). Adalah's report focused on five main issue areas: (1) the increasing legitimization of racism; (2) restrictions on political participation; (3) discriminatory laws and policies concerning the family and children; (4) discrimination against Palestinian women citizens of Israel; and (5) the absence of equality/minority rights. Adalah also submitted an oral statement to the UNHRC Task Force suggesting proposed questions, based on our written report, for the Israeli government. Mr. Antoine Madelin of FIDH presented the oral statement on behalf of Adalah at an NGO meeting held by the Task Force in 10/02.

The UNHRC released its *List of Issues* in November 2002. While the *List of Issues* focuses primarily on Israel's obligations under the ICCPR vis-à-vis Palestinians in the 1967 Occupied Territories, the Task Force also raised some questions regarding the civil and political rights of Palestinian citizens of Israel, which were discussed in Adalah's report. These issues include: the Israeli government's revocation of citizenship of Palestinian citizens of Israel; restrictions placed on freedom of movement; fair representation for Palestinian citizens of Israel on governmental bodies; and the status of the government's implementation of the Multi-Year Plan for the Development of Arab Sector Communities.

Update Note: Adalah participated in the July 2003 UNHRC's review of Israel (postponed from 3/03). Copies of Adalah's reports (11/02 and 7/03) and the UN HRC's concluding observations (8/03) are available at: <http://www.adalah.org/eng/intladvocacy2003.php>.

European Union

Hearing on EU-Israel Bilateral Relations, Brussels, Belgium. In June 2002, Adalah Attorney Suhad Bishara attended a hearing at the European Parliament, entitled "EU-Israel Bilateral Relations in the Framework of International and European Law: The Case of the European Community-Israel Association Agreement." Ms. Bishara joined representatives of other international, Israeli and Palestinian human rights organizations in a panel discussion on recent developments in Israel and the OPTs. She spoke briefly on the more restrictive measures adopted by the Israeli government vis-a-vis Palestinian citizens of Israel since the outbreak of the current Intifada in the OPTs and the October 2000 protest demonstrations in Israel. [Participation supported by APRODEV]

EU Advocacy, NGO Delegation Visit to Brussels, Belgium. In November 2002, Adalah Board Chairperson Ghassann Agbaria and Adalah Development Director Rina Rosenberg participated in a delegation visit to Brussels of NGOs working on Palestinian minority rights in Israel. The delegation met with representatives of the European Commission, the European Parliament, the EU Council and Belgian institutions, as well as European civil society organizations. The purposes of the visit were to raise awareness among EU and Belgian institutions of institutionalized discrimination against Palestinian citizens of Israel; to facilitate greater cooperation between Palestinian, Israeli and European NGOs for coordinated advocacy efforts in Israel and in Europe to defend citizens' rights; and to begin to build a strategic EU lobby agenda focused on Palestinian rights in Israel. The delegation from Israel was comprised of representatives from Adalah, the Arab Association for Human Rights, Ittijah – Union of Arab Community Based Organizations, Mossawa, the Regional Council for the Unrecognized Villages, Shatil, and Sikkuy. Nine European NGOs and six EU Members of Parliament organized the visit, led by APRODEV and FIDH. [Participation supported by FIDH].

Inter-Parliamentary Union (IPU)

Representation of MK Dr. Azmi Bishara before the Committee on the Human Rights of Parliamentarians, Inter-Parliamentary Union (IPU), Geneva, Switzerland. In January 2002, Adalah representatives and MK Bishara addressed the Committee on the issue of the removal of MK Bishara's immunity and his subsequent

indictment. Adalah Attorney Jamil Dakwar presented a paper to the Committee discussing the legal issues related to the case (available in the International Advocacy section of Adalah's website). MK Bishara spoke about the political situation in Israel, and offered insights on his case. Adalah Board Chairperson Ghassann Agbaria provided historical background on Palestinian citizens of Israel. As a result of the presentations, the Committee decided that: "Mr. Bishara represents a party, recognized under Israeli law, which defends the right to self-determination of the Palestinian people, and has been elected on this platform ... [The Committee] cannot share the view of the authorities that the two speeches under consideration, read in their entirety, express praise and support for a terrorist organization; considers rather that they reflect the political programme of Mr. Bishara's party." The Inter-Parliamentary Council has resolved to continue to monitor the progress of MK Bishara's criminal cases pending before the Nazareth Magistrate Court.

Conferences/Speaking Tours

"Steps to Protection" Conference on Human Rights Defenders, Dublin, Ireland. In January 2002, Adalah Attorney Jamil Dakwar participated in this Front Line-sponsored conference, which addressed the challenges facing human rights defenders around the globe and strategies to support human rights defenders subjected to political harassment by governments. Participants in this conference included the UN High Commissioner for Human Rights, Mrs. Mary Robinson; the UN Special Representative for Human Rights Defenders, Ms. Hina Jilani; local and international human rights defenders; academics; and lawyers. Mr. Dakwar also traveled to Northern Ireland to attend the hearings of the Bloody Sunday Inquiry, and to develop contacts for Adalah with the human rights program at Queen's University. [Participation supported by Front Line]

Convergences Palestine/Israel, Paris, France. In April 2002, Adalah General Director Hassan Jabareen participated in the Ligue des Droits de l'Homme (LDH)-sponsored Convergences meeting entitled "Comparative Inventory of Rights." The session, which brought together lawyers, academics and human rights activists from Israel and Palestine, was one of a four-part series of LDH events aimed at opening a space for dialogue between participants and with the French public. Mr. Jabareen spoke about new developments concerning the legal status of Palestinian citizens in Israel. About 150 people attended the event. [Participation supported by LDH]

Euro-Mediterranean Partnership, Cultural Diversity and Universality of Human Rights, Rabat, Morocco. In May 2002, Adalah Board Member Fuad Sultani participated in this FIDH-sponsored conference. Sixty human rights defenders and regional experts came together to exchange experiences; discuss the dynamics between cultural diversity and the universality of human rights; and to evaluate the policies implemented in the region to promote cultural diversity. Mr. Sultani gave a briefing at the conference on political prisoners and administrative detainees, both Palestinian citizens of Israel and Palestinians from the OPTs. [Participation supported by FIDH]

Amnesty International (AI) Speakers Tour, United Kingdom. In June 2002, Adalah Attorney Jamil Dakwar participated in an AI-sponsored speakers tour in the UK on the human rights situation in Israel/Palestine. Participants briefed Members of Parliament, journalists and community groups about the deteriorating situation in Israel/Palestine and the work being done by human rights organizations on the ground to address the situation. [Participation supported by AI]

Society of American Law Teachers (SALT) and National Lawyers Guild (NLG) Conferences and Speaking Tour, New York and California, US. In October 2002, Adalah Attorney Marwan Dalal participated in a two-week speaking tour in the US on the invitation of the NLG. Mr. Dalal delivered a keynote speech at the SALT Conference held at Fordham Law School, NY, entitled "Between Law and Lawyering: Challenging the System from Within?" Mr. Dalal spoke in California about institutionalized discrimination against Palestinian citizens in Israel, Israeli governmental policies in the Occupied Territories, and attempts to legally challenge both issues at the California Commonwealth Club; Boalt Law School at UC Berkeley; UCLA School of Law; and Whittier College. He also gave numerous interviews on radio shows broadcast locally and nationally. Mr. Dalal also presented on panels and at workshops at the NLG 2002 Annual Convention, "Law for the People." The Convention was attended by hundreds of progressive lawyers and law students from across the US. Speaking on the NLG's major panel, "The Scheme to Crush Palestinian Resistance," Mr. Dalal analyzed Israel's policies of occupation and discussed recent legal challenges brought against the army and the state before the Israeli courts. [Participation supported by NLG]

Organizational Development/Networking

Legal Consultation Visit, Washington DC and New York, US. In January 2002, Adalah General Director Hassan Jabareen and Riad Anes, a private lawyer and co-counsel on two major representations, held a series of meetings with lawyers, legal academics, and Arab American students and community leaders to raise awareness of Adalah's work in general, renew contacts for future projects, and seek consultation regarding our legal representation of MK Azmi Bishara. Meetings were held with law professors from New York University Law School, Columbia University Law School, Georgetown University Law Center and American University-Washington College of Law, as well as the American Civil Liberties Union, the Arab-American Anti-Discrimination Committee, and the National Lawyers Guild. Mr. Jabareen also presented a briefing at the Center for Policy Analysis on Palestine. In addition, they met with donor agencies to Adalah such as the New Israel Fund, the Ford Foundation, and the Open Society Institute. [Participation partially supported by Ford Foundation]

Euro-Med Working Group Meeting on Israel/Palestine, Geneva, Switzerland. In March 2002, Adalah General Director Hassan Jabareen took part in this Euro-Mediterranean Human Rights Network (EMHRN)-organized meeting of international, Palestinian, and Israeli NGO leaders. Participants discussed a concept paper detailing the Working Group's mandate; missions and monitoring of the situation and how they can be used in advocacy on Europe; and proposed common initiatives. [Participation supported by EMHRN]

Human Rights Impact Indicators, Preparatory Meeting, The Hague, The Netherlands and Workshop, Rabat, Morocco. In April 2002, Adalah Development Director Rina Rosenberg, participated in a NOVIB-sponsored preparatory session on developing indicators to measure the impact of human rights activities. Building upon the outcomes of a May 2001 NOVIB-led meeting of partners, NOVIB staff and NGO participants identified and discussed subjects to be included in an October 2002 workshop on these issues. Adalah General Director Hassan Jabareen attended the October workshop organized by NOVIB and Espace Assocatif Marocain. Titled "Making a Difference?: Trying to measure effect of human rights development programs," the workshop sought to identify methodologies for assessment and indicators to measure the effect of projects and activities conducted by human rights organizations; to reach agreement among NOVIB partners on the meanings of terms such as effects, impacts and results; and to increase knowledge of the reality of field situations, to be used as input for NOVIB policy formulation. Mr. Jabareen delivered a presentation on Adalah and the ways in which the organization assesses its work. [Participation supported by NOVIB]

End To Borders - Arab Civil Society Organizations Take Up the Challenge, Cairo, Egypt. In October 2002, Adalah Attorney Suhad Bishara participated in this five-day conference of Arab NGOs organized by Ittijah – Union of Arab Community-Based Organizations, and the Cairo Institute for Human Rights Studies. The conference featured workshops and panel discussions on topics including the present state and possible future of Palestinian citizens of Israel, problems and challenges faced by civil society organizations in the Arab world, and the exchange of experiences between Arab civil society organizations. [Participation supported by Ittijah]

International Legal Courses

Introduction to the International Criminal Court (ICC), Galway, Ireland. In July 2002, Adalah Development Director Rina Rosenberg attended a week-long course on the ICC at the Irish Centre for Human Rights (ICHR), National University of Ireland. About 80 lawyers, L.L.M. and Ph.D. students, and other professionals from around the world attended the course. Lecturers included law professors, lawyers working before the International Criminal Tribunals for the Former Yugoslavia and Rwanda (ICTY and ICTR), and the litigation director of Interights. Coursework included historical developments leading to the ICC, an extensive examination of the Rome Statute, and ICTY and ICTR practice and case law. [Participation supported by the ICHR]

Introductory Course on United Nations Tools for the Protection of Human Rights. In late October and early November 2002, Adalah Field Researcher Salim Abu-Medeghem attended a one-week training course for human rights workers entitled "United Nations Tools for the Protection of Human Rights." The course was held in Amman, Jordan, and hosted by the Arab Institute for Human Rights, in cooperation with the Amman Institute for Human Rights Studies, and the Arab Center for Human Rights and International Law Education. The introductory course sought to improve the human rights reporting skills of participants for purposes of international advocacy, as well as to broaden their knowledge of United Nations human rights bodies, and how to work with them. Topics of lectures and workshops included: international human rights treaties, human rights advocacy after September

11th, the new International Criminal Court, and problems faced by NGOs working in international forums. [Participation supported by the convenors].

Course on Non-Discrimination and Minority Rights. In November 2002, Adalah Attorney Morad El-Sana attended a one-week course entitled “Non-Discrimination and Minority Rights,” held at Abo Akademi University’s Institute for Human Rights, in Turku, Finland. Consisting of lectures and case studies, the course provided about 28 participants (lawyers, post-graduate law students, and legal staff of NGO, governmental and inter-governmental offices) with a systematic picture of norms in non-discrimination and minority rights within the United Nations, the Council of Europe, the European Union and the OSCE contexts. The course also addressed general issues, including various forms of discrimination, the nature of minority rights, multiculturalism, affirmative action and legal strategies against racism. Priority focus areas included minority rights case law of the European Court of Human Rights, and new trends in European national court litigation on women’s rights and the rights of indigenous peoples. (Participation supported by the course convenor).

III. LEGAL EDUCATION

Seminars, Study Days and Workshops

Seminar and Tour with the United Nations Special Rapporteur on Adequate Housing, Beer el Sebe. In January 2002, Mr. Miloon Kothari, the UN Special Rapporteur on Adequate Housing, conducted a mission to the Occupied Territories. During his visit and that of Mr. Joseph Schechla of the Habitat International Coalition, Adalah and Professor Oren Yiftachel, Chair of the Geography Department, Ben Gurion University (BGU), invited them to Israel and co-organized a seminar at BGU for them to speak. At the seminar, Mr. Kothari and Mr. Schechla spoke on policy issues and on international human rights organizations' involvement in housing issues. Adalah also accompanied Mr. Kothari and Mr. Schechla on a visit to several unrecognized villages in the Naqab, where they also met with the Regional Council for the Unrecognized Villages.

Panel Discussion, Umm Al-Fahem. In March 2002, Adalah co-hosted a panel discussion with Assiwar (a Palestinian women's rights NGO in Israel) in Umm Al-Fahem. Panelists focused on how law can be used as a tool for social change vis-à-vis the state, as well as on Palestinian women's initiatives to start economic projects within their communities. About 150 women (secular, religious, young and older) as well as a few men from the Triangle attended the event.

University and Community Educational Lectures in Israel. Adalah staff and Board members spoke at numerous symposia, lectures and events held at universities, NGOs, community centers, and schools throughout the country. They addressed such issues as Adalah's work before the Commission of Inquiry; Palestinian detainees and prisoners; the right to demonstrate; litigating economic, social and cultural rights cases; the right to education; and discrimination against Arab children in Israel with special needs.

Publications and Reports

Adalah's Review, Volume 3, Law and Violence (2002). The third volume of *Adalah's Review*, titled "Law and Violence," was completed in August 2002 and released in October 2002. Recognizing the centrality that the October 2000 events occupied in Adalah's work, the editors of *Adalah's Review* decided to take the lead from these events and to situate them in the larger theoretical problematic of the relationship between law and state violence. Accordingly, the third volume of *Adalah's Review* attempts to offer an understanding of the ways in which law, in different historical and political settings, exists in relationship to violence. The volume included eight essays by academics and practicing lawyers, in addition to Adalah staff members. The volume also included a special dossier devoted to the Commission of Inquiry into the October 2000 protest demonstrations, and Adalah's legal work before it. The dossier includes re-produced original documents related to the work of Adalah before the Commission of Inquiry. It also includes documents addressing the connection between the Israeli Commission and tribunals that investigated state violence against citizens in England and Northern Ireland, including the Bloody Sunday Inquiry.

This volume offers a range of perspectives on the problematic of law and violence and the October 2000 events. Readers can find the perspectives of lawyers who were involved in the very events that they analyze in their articles. Additionally, they can find the perspectives of academics whose analysis is based on historical and documentary research rather than first-hand experience, and as such is more distanced and generates a different type of insight. The inclusion of the contribution of Adalah staff members complements these two perspectives with the institutional perspective of the organization. The journal, as a whole, offers a forum for a variety of perspectives that combines practice with theory. These perspectives, collectively, offer a variety of fresh and critical insights on a range of topics related both to critical ongoing events and to contemporary academic and legal discourses.

A total of 4,500 copies of *Adalah's Review* were produced, 1,500 in each language - Arabic, Hebrew and English. The journal was reviewed both in the Hebrew and the Arabic newspapers. In the Hebrew press, it was reviewed in *Ma'ariv* and *Ha'aretz*; in the Arabic press, it was reviewed in *al-Ahali* and in *Fasl al-Makal*. The journal was distributed free of charge to judges, MKs, NGOs, embassies, and donors. A flyer announcing the publication of the journal was also sent out and publicized on our website. This resulted in the sales of the Arabic, Hebrew and English volumes to libraries, lawyers, academics, and other individuals.

Memorial Event. In October 2002, Adalah organized an evening in Shafa'amr to commemorate the 13 Palestinian citizens of Israel killed by security forces during the October 2000 events. On this second anniversary of the demonstrations, Adalah also formally launched Volume 3 of *Adalah's Review*. Speakers at the event included Ghassann Agbaria, Chairperson of Adalah's Board of Directors; Shawqi Khatib, Chairperson of the High Follow-Up Committee for Arab Citizens in Israel; Hassan Asleh, father of one of the victims, Asel Asleh; and Samera Esmeir, co-editor of *Adalah's Review*.

Workshop. In November 2002, Adalah held a workshop on *Adalah's Review* at our offices in Shafa'amr. Approximately 30 academics, lawyers, and NGO leaders attended the workshop. The workshop had two purposes. The first was for the editors to receive critique and comments on the theme of volume 3, on the essays published in it, and on the general structure of the volume. The second purpose of the workshop was to learn more from the participants about the project of the journal as a whole, in order to assess its future direction as well as the community's expectations from such a journal. The discussion revealed many participants' very high expectations for the journal. It also revealed the participants' conviction that the journal is filling an important gap not only in the publication of scholarly legal research among the Palestinians in Israel, but also in cultural production more generally. Adalah was pleased to receive feedback on a variety of topics related to the journal, including its academic standards, target audience, content and themes, contributors, comparative international perspective, and attempts to combine theory and practice. While participants varied in their comments, they all recognized the importance of the project and wished to see its continued development.

Website (www.adalah.org). Adalah maintains an extensive website, which was updated regularly with news, press releases, and new developments in our legal and international advocacy work. In 2002, Adalah created special pages on the website for our major representations on behalf of MK Bishara and Sheikh Ra'ed Salah, and web-based reports on Adalah's Emergency Agenda – Occupied Territories and the 2003 Elections. These pages offer a wide-range of primary source documents including petitions, state responses, Supreme Court decisions, and laws, as well as related news and report links. Each month, Adalah's website is visited by thousands of individuals around the world and is a main source of information for researchers, students, and journalists.

2001 Annual Report. Adalah produced an annual report of its key 2001 activities in both English and in Arabic. The 26-page report in English, completed in June 2002, was distributed to donors, embassy representatives, and international visiting delegations, and posted on our website. The 21-page report in Arabic, completed in December, was distributed to Adalah's General Assembly members and at seminars and other events.

The Right to Demonstrate. Adalah wrote and printed a pocket-size booklet in Arabic entitled "The Right to Demonstrate." The booklet explains, in easy to understand language, the rights of demonstrators under Israeli law. Adalah produced 10,000 copies of this booklet, and widely distributed it to students' committees, NGOs, and through the Arabic-language media outlets.

Media

Adalah recognizes that the media plays a major role in influencing and shaping public opinion. As such, media outreach constituted an important part of Adalah's daily work. In August 2002, a Media Coordinator joined the staff of Adalah to facilitate the organization's media work and to begin to build new media strategies with staff and Board members.

In 2002, Adalah's media work included: writing and widely distributing press releases and news updates on Adalah's legal work in Arabic, Hebrew and English; developing contacts with local and international journalists; initiating interviews on radio and television stations; initiating feature articles in the press; and writing articles on Adalah's legal work, the rights of the Arab minority in Israel, and op-eds for publication by local and international newspapers. Throughout the year, Adalah's work was regularly cited in the local Hebrew, Arabic and English media, and staff and Board members appeared regularly on radio and TV programs.

Local and International Arabic Media: Adalah's work appeared almost every week in the local Arabic-language newspapers. Staff attorneys participated in numerous interviews on Radio al-Shata during the year. Adalah also successfully gained wider coverage in the international Arabic media.

Hebrew Media: In general, the mass circulation Hebrew-language daily newspapers, *Yediot Aharonot* and *Ma'ariv*, ignore the issues and problems of the Arab minority in Israel. When minority issues are reported, the coverage is usually negative, superficial, and/or filled with stereotypes. In 2002, *Ha'aretz*, local newspapers, *Reshet Bet* radio, and *Galatz Tsahal* radio generally covered Adalah's work. The scope of the coverage varied in relation to the case.

International Media: Adalah widely expanded its contacts with international journalists, primarily based in Jerusalem, and succeeded to gain increased coverage on rights issues concerning Palestinian citizens of Israel from the international media. Adalah maintained an extensive list of journalists, and regularly distributed information to them via our electronic listserv and our website.

The most extensive coverage of an issue on which Adalah worked, both in the local and international media, was that of the Israeli army's invasion of the Occupied Territories in March and April 2002. Petitions and other interventions by Adalah related to human rights violations committed by the Israeli army during this period were widely reported on by various international media outlets including the *Agence France-Presse*, *The Associated Press*, *Reuters*, *USA Today*, *the BBC*, *The Washington Post*, *The Globe and Mail (Toronto)*, *The Los Angeles Times*, and *The Chicago Tribune*. Other issues that also received substantial coverage in the local and international media included the Commission of Inquiry, the elections disqualification cases, MK Bishara's cases, the budget cuts in the child allowances case, and the government's new interim policy on family unification.

New Media Initiatives: New media initiatives in 2002 included: (1) Adalah appeared each week on the Miki Mero, *Reshet Bet* Radio Program Hour. An Adalah staff or Board member spoke about various topical issues of discrimination and minority rights raised by our cases; and (2) Adalah succeeded to greatly expand the coverage of our cases on internet websites including: arabs48; ynet; Walla; NFC; and *Ha'aretz*.

Press Packages. Adalah created three press packages in 2002. These packages provide extensive background materials and primary source documents concerning our work before the Commission of Inquiry; our legal representation of MK Azmi Bishara; and our legal representation of Sheikh Ra'ed Salah. Adalah distributed these packages to the media, lawyers, embassy representatives, donors, international human rights NGOs and visiting delegations, and posted this information on our website.

Newspaper Ads. In March 2002, Adalah placed two advertisements in *Ha'aretz*. One, published with Al Meezan and other human rights organizations, was entitled, "The Violation of Freedom of Movement and the Right to Due Process of Sheikh Ra'ed Salah." The second, published with the High Follow-up Committee and the Committee of the Bereaved Families, was entitled "Don't Blame the Victim." This advertisement protested the decision of the official Commission of Inquiry to issue warnings to three Arab elected representatives. Adalah also endorsed several ads placed in local newspapers in cooperation with other NGOs.

Training for Law Students and New Lawyers

Stagers and Law Students. Ms. Abeer Baker and Mr. Moayad Mi'ari worked as Adalah's stagers (legal apprentices) during 2002. Ms. Baker, a graduate of Haifa University Faculty of Law, worked as a stager from April 2001– March 2002. After passing the Israeli Bar exam, she re-joined Adalah as a staff attorney and as the coordinator of Adalah's Criminal Justice Project in June 2002. Mr. Mi'ari, a graduate of Tel Aviv University Faculty of Law, joined Adalah as a stager in March 2002. Adalah also hosted several students from the law school clinics of Hebrew (Minerva Center) and Haifa Universities in 2002. Students spent several hours each week working in Adalah's offices on a variety of legal research projects for staff attorneys.

LLM Fellows. Ms. Suhad Bishara joined Adalah as a Staff Attorney in October 2001, after receiving her LLM (Masters of Law) from New York University (NYU). Her work with Adalah was partially funded in 2002 by the NYU Global Scholars Program. Ms. Gadeer Nicola returned to Adalah as a Staff Attorney in September 2002, after receiving her LLM from American University, Washington College of Law. Ms. Nicola is the recipient of a New Israel Fund Law Fellowship, which supported her LLM studies and her work with Adalah for one-year (2002-2003).

IV. INSTITUTIONAL DEVELOPMENT

Staff and Board Development

Board-Staff Workshop for the Institutionalization of Adalah. In June 2002, 20 members of Adalah's Board and staff took part in a three-day workshop to assess Adalah's Naqab (Negev) activities, to discuss Adalah's public image, and to review and finalize a draft set of organizational by-laws to be voted on by the General Assembly (GA) membership in December 2002. Mr. Fathi Marshoud of Shatil facilitated the workshop.

During the opening session, participants addressed the needs and activities of the Naqab office, following short presentations by the Naqab-based staff regarding key issues of concern to the residents of the region and the resources necessary to address these issues. Participants discussed the need to improve communication between Adalah's Shafa'amr and Beer el-Sebe offices, and it was decided that staff members would travel between the offices more regularly to review and discuss legal and administrative issues. Naqab staff members were asked to prepare and present a legal educational program of proposed activities for the office, which will establish a clear work plan in this area. Additionally, the organization discussed the possibility of establishing an informal Naqab Committee, comprised of Adalah Board and staff members, who would meet quarterly to better plan, monitor and evaluate the work. The participants also re-confirmed Adalah's full commitment to continuing to build our office in the Naqab and to our work in this area, which is one of the greatest needs of the Arab minority in Israel.

In the second workshop sessions, participants discussed the goals and mandate of Adalah at its founding, and how these have developed during the last six years. Staff and Board discussed Adalah's growth, and critically assessed Adalah's development and its strategies for achieving its overall goals. In these discussions, Adalah's staff and Board affirmed the organization's commitment to taking a proactive role in its work, and its commitment to protect human rights in general and the rights of the Arab minority in particular. Adalah further reaffirmed its commitment to represent all groups within Palestinian society in Israel. The workshop also included discussions of how Adalah's major representations during the past two years have affected the image of the organization in Jewish Israeli and Palestinian society. Staff and Board members agreed that while certain of Adalah's cases were inevitably more visible than others due to local and international press interest, the organization should continue to strive to ensure increased attention to the full range of Adalah's cases and activities. All of these matters raise many issues concerning Adalah's identity, how it is developing and maturing. These discussions will certainly continue in subsequent Adalah Board-staff sessions.

The focus of the final 1½ days was an article-by-article review and approval of a draft set of by-laws. The 76 articles of the by-laws include provisions on Adalah's goals and structure; GA membership and Board selection process; the work of the Board, Controller and Finance Committees; a new Consultative Committee; and financial resources. These provisions delineate tasks and responsibilities as well as decision-making authorities for various bodies within Adalah. The initial draft was prepared by a small by-laws committee, comprised of GA, Board and staff members, which met several times prior to the workshop to prepare the document. The committee reviewed the by-laws of other local and international human rights organizations such as ACRI, B'Tselem, Amnesty International, and the Israeli Law of Associations for consideration and adaptation in the development of the draft. The final draft by-laws include several key developments: (i) open membership for any applicant who supports the goals of Adalah (pending board approval and with an appeal procedure); (ii) expansion of Board member terms to two-years, with a four year limit; (iii) expansion of the Finance Committee to three board and four staff members with concrete tasks; (iv) establishment of a community Consultative Committee to work with and advise the organization on sensitive and high-profile cases; and (v) clear qualifications, guidelines, and conflict of interest policies for Board and Consultative Committee members. At the sessions, Staff and Board discussed and agreed upon a draft set of by-laws to be presented to Adalah's General Assembly for approval.

Board and General Assembly Members

Board of Directors. The seven members of Adalah's Board of Directors in 2002 were:

- Mr. Ghassann Agbaria, Advocate (Chairperson)
- Mr. Yousef Anton
- Mr. Muhammed Dahleh, Advocate
- Ms. Iman Kandalaft
- Mr. Azmie Odeh, Advocate
- Mr. Fuad Sultani, Advocate
- Mr. Salam Zubi

In 2002, Adalah's Board met once each month and additionally as needed. Board members reviewed and approved program plans and budgets; discussed case selection and Adalah's legal representations; monitored and evaluated managerial, program, and fiscal policies and spending; and represented Adalah at public events locally and internationally, at donor agency meetings, and in the media.

Annual General Assembly Meeting. On 13 December 2002, Adalah held its annual General Assembly (GA) Meeting in our offices in Shafa'amr. At the meeting, GA members discussed and approved Adalah's 2001 Activities Report and Audited Financial Statement, as well as a report of the Controlling Committee. The GA also re-appointed our auditor, and received an update on Adalah's major representations and other activities in 2002. The two main outcomes of the GA meeting were:

Approval of Organizational By-Laws for Adalah: Since its establishment, Adalah has been working in accordance with the Israeli Law of Associations (1980), but has sought to develop an institution-specific constitution of governance. Following the Board-Staff workshop in June 2002, Adalah sent the agreed-upon draft by-laws and explanatory notes to all GA members for review and comment. At the GA meeting in December, the draft was further discussed and the 76-article document was subsequently approved. Accordingly, Adalah's work has proceeded pursuant to these by-laws. *An English translation of the final, approved version of the by-laws is available upon request.*

Election of a New Board of Directors: The GA elected a new seven-member Board of Directors for Adalah at its 12/02 meeting. The new Board includes five men and two women. Returning Board members are Mr. Ghassann Agbaria, Advocate (Chairperson); Mr. Muhammad Dahleh, Advocate; Ms. Iman Kandalaft; and Mr. Fuad Sultani, Advocate. New Board members include Mr. Salman Natour (who has previously served on Adalah's Board), Ms. Reema Abu Assa (our first Board member from the Naqab), and Dr. Marwan Dwairy. For brief profiles of Adalah's Board members, see <http://www.adalah.org/eng/staffboard.php#board>.

Institutional Challenges

The Registrar of Associations. In August 2002, the Registrar of Associations announced in the media and later by official notice to the organization that he intended to appoint an investigator into Adalah's activities. The Registrar's announcement came during Adalah's representations of elected leaders before the Official Commission of Inquiry into the October 2000 Protest Demonstrations, and was issued immediately prior to Adalah's cross-examination of former Minister of Internal Security Shlomo Ben Ami and former Prime Minister Ehud Barak. The Registrar set forth three grounds for the investigation: (i) undertaking activities beyond the scope of our mandate, namely providing legal consultation; (ii) concerns related to financial mismanagement including allegations of using money for certain political figures; and (iii) Adalah's relationship with the Galilee Society (an organizational founder of Adalah and the NGO from which we rent and share office space). Adalah believes that the Registrar's actions are politically motivated, and are part of an ongoing effort to harass, intimidate and weaken the political leadership, civil society institutions, and grassroots of the Palestinian minority in Israel. Adalah staff and board took many steps to challenge the Registrar's decision including:

- Submitted a letter to the Attorney General (copied to the Minister of Interior, the Registrar, the State Comptroller, and the head of the High Court of Justice Department in the Ministry of Justice) asking that he intervene to cancel the appointment of a legal investigator. Adalah suggested that an independent

financial audit, under the auspices of the Attorney General, would make clear that Adalah's financial management is conducted in a responsible, professional and appropriate manner. We have received no written response to this letter to date.

- Issued press releases in Arabic, Hebrew and English denying the allegations and challenging the methods used by the Registrar against Adalah.
- Convened and attended meetings with Arab and Jewish Israeli NGOs both in our offices in Shafa'amr and in the Faculty of Law, Tel Aviv University in order to explain the circumstances of the case and to seek support. Several representatives of Arab NGOs in the Naqab attended these meetings.
- Organized a supportive ad, with the assistance of Shatil, signed by over 60 Arab and Israeli Jewish NGOs (including 13 NGOs in the Naqab solicited by Adalah's office), which ran in *Ha'aretz*, *Ha'aretz English Edition*, and *Kul el-Arab*. The ad is entitled "Don't Harm Civil Society" and expresses concern regarding the Registrar's conduct toward human rights NGOs in general and Arab associations in particular.
- Solicited letters of support, which were sent to the Israeli authorities by the US-based Lawyers Committee for Human Rights, and a coalition of nine international human rights organizations: Amnesty International; Avocats sans Frontières - Belgique; Euro-Mediterranean Human Rights Network; Front Line; Human Rights Watch; International Federation for Human Rights (FIDH); Minority Rights Group; Observatory for the Protection of Human Rights Defenders; and the World Organisation Against Torture.
- Sent two letters to the UN Special Representative on Human Rights Defenders about our case. Adalah was recently informed that the office sent an intervention to the Israeli authorities on behalf of Adalah.
- Filed an appeal against the Registrar's decision with the Minister of Interior on 5 September 2002. We have not yet received a decision.
- Solicited a supportive article by Dr. Neta Ziv, a lecturer in the Faculty of Law, Tel Aviv University, and a profile article about the organization, which were published in *Ha'aretz*. Letters to the Israeli authorities were also sent by ACRI and the Chairperson of the Israeli Bar Association.
- Attended meetings with embassy representatives in Israel to explain the circumstances of our case and seek their support.
- Attended meetings with donors to Adalah, the outcome of which was a letter of support for the organization sent to the Israeli authorities testifying to our sound financial management practices and our professional integrity. Representatives of eleven foundations signed the letter. Several donor agencies also indicated that they would raise our case with their foreign ministries.
- Sent numerous letters from 10/02 to the legal investigator, Advocate Ilan Shemer, appointed by the Registrar of the Associations. On numerous occasions, Mr. Shemer has requested that Adalah's General Director, Hassan Jabareen, come to Jerusalem to give testimony and bring various documents to him. Adalah's position is that the investigator's request is premature; the appeal filed by Adalah to the Minister of Interior stays the investigation. We recently received a letter from the Attorney General's office, which agrees with our position. This letter has been forwarded to the legal investigator.

Update Note: To date, Adalah's appeal to the Minister of Interior against the decision to appoint a legal investigator is pending.

Staff

Job Title	Name
General Director	Mr. Hassan Jabareen, Advocate
Legal Department	
Staff Attorney	Ms. Abeer Baker, Advocate
Staff Attorney	Ms. Suhad Bishara, Advocate *
Staff Attorney	Mr. Jamil Dakwar, Advocate *
Staff Attorney	Mr. Marwan Dalal, Advocate
Staff Attorney	Mr. Morad El-Sana, Advocate
Staff Attorney	Ms. Orna Kohn, Advocate
Stager	Mr. Moayad Mi'ari
Naqab Field Researcher	Mr. Salem Abu-Medeghem
Publications, Research, Media	
Staff Attorney/NIF Fellow	Ms. Gadeer Nicola, Advocate *
Adalah's Review Editor	Ms. Samera Esmeir, Advocate
Media Coordinator	Ms. Eva Mousa *
Development Department	
Development Director	Ms. Rina Rosenberg, Esq.
Advocacy Coordinator	Ms. Anne Massagee *
Administration	
Admin. Director	Ms. Fathiyya Hussein
Accountant	Mr. Basheer Geraisy
Admin. Assistant	Ms. Amal Hussein *
Admin. Assistant	Ms. Christine Nasrallah

Bios of Adalah's staff are available at: www.adalah.org/eng/staffboard.php.

* Notes:

(1) Ms. Suhad Bishara received an eight-month partial scholarship from New York University Law School to support her work with Adalah.

(2) Mr. Jamil Dakwar left Adalah in 8/02 after five years of work to pursue his L.L.M. study at New York University Law School. He received a Global Scholars Fellowship.

(3) Ms. Gadeer Nicola returned to Adalah after one-year of L.L.M. study at American University. Ms. Nicola is the recipient of a New Israel Fund (NIF) Law Fellowship, 2001-2003. Her work with Adalah will be supported by the NIF for one-year.

(4) Ms. Eva Musa joined Adalah as our full-time Media Coordinator in 8/02.

(5) Ms. Anne Massagee left Adalah in 8/02 after two years with the organization to pursue her L.L.M. study at the University of Essex.

(6) Ms. Amal Hussein left Adalah after five years of work.

Three overseas volunteers interned with Adalah in 2002: John Halski (through 6/02), Gabriel Fahel, L.L.M., New York University (8/02-10/02) and Jake Wadland.

Staff Training

Beginning in October 2002, Administrative Director Fathiyya Hussein attended a six-month weekly course entitled, "Administration for Social Change and Development NGOs." Offered by Haifa University and organized in partnership with Shatil, this professional continuing education course was specifically designed for administrators of Arab NGOs in Israel, and included theoretical and practical discussions of issues ranging from management approaches, developing and achieving organizational objectives, marketing, budgeting, workplace conflict resolution, and personnel evaluation and feedback. Ms. Hussein completed the course in March 2003.

Academic Affiliations and Publications

Hassan Jabareen. Adjunct Lecturer, Faculty of Law, Hebrew University and Faculty of Law, Tel Aviv University – Fall Semester Course, “Arab Minority Rights in Israel”; and “The Future of Arab Citizenship in Israel: Jewish-Zionist Time in a Place With No Palestinian Memory,” in *Challenging Ethnic Citizenship*, eds. Daniel Levy and Yfaat Weiss (New York: Berghahn Books, 2002), pp. 196-220.

Abeer Baker. Research Assistant to Dr. Jonathan Yuval, Faculty of Law, Haifa University, “Law, Language and Literature”; and Assistant to Hassan Jabareen for “Arab Minority Rights in Israel.”

Jamil Dakwar. Adjunct Lecturer, Human Rights Division, College of Law-Ramat Gan - Course entitled, "Arab Minority Status in Israeli Law"; and "Grave Breaches: A View From Jenin and Nablus," Kathleen Cavanaugh & Jamil Dakwar, Middle East Report No. 223, Vol. 32 (Summer 2002).

Marwan Dalal. “Free Speakers and Their Repression: American Lessons to Israel,” 38 *Stanford Journal of International Law* 43 (2003).

Orna Kohn. Assistant to Professor Amnon Reichman, Faculty of Law, Haifa University – Year-Long Course, “Constitutional and Administrative Law.”

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The views expressed in this report are those of Adalah and do not reflect the official position of the European Community or another donor to Adalah.