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**NGO Monitor's Submission to the Committee for the Elimination of Racial  
Discrimination (CERD) in Advance of the  
Periodic Review of Israel (80<sup>th</sup> Session)**

NGO Monitor is a Jerusalem-based research institution that tracks the activities, campaigns, and funding of NGOs operating in the Arab-Israeli conflict. For more than eight years, NGO Monitor has conducted numerous detailed and systematic research studies on the issues of NGO transparency and accountability, international law, human rights, humanitarian aid, and the laws of armed conflict.<sup>1</sup>

NGO Monitor has prepared this submission in advance of the periodic review of Israel at the 80<sup>th</sup> Session of the UN Committee on the Elimination of Racial Discrimination (CERD).

**Introduction**

Israel is a vibrant parliamentary democracy facing many complex challenges, such as balancing the rights of its population (including its Arab minority) with the need to protect against frequent attacks on its civilians launched from Hamas-controlled Gaza, the West Bank, and Hezbollah-controlled Southern Lebanon. The civil society (NGO) network in Israel, the West Bank, and Gaza is thriving and often provides valuable humanitarian assistance, including health services, education, and other basic requirements under many difficult and complex conditions. Unfortunately, however, some segments of this network also often play a counterproductive role in the Arab-Israeli conflict.

Many NGOs undermine good-faith measures to make Israeli society more inclusive, and instead promote destructive bias and ideological agendas. As a result, NGO statements

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<sup>1</sup> Members of NGO Monitor's Advisory Board include Nobel Peace Prize winner Elie Wiesel; Harvard Professor Alan Dershowitz; Colonel Richard Kemp, former commander of British forces in Iraq and Afghanistan; R. James Woolsey, former US Director of Central Intelligence; Member of Italian Parliament, Fiamma Nirenstein; US Jurist and former Legal Advisor to the State Department, Abraham Sofaer; Ambassador Yehuda Avner; Judea Pearl, UCLA Professor and President of the Daniel Pearl Foundation; Harvard Professor Ruth Wisse, former US government official, Elliot Abrams; Douglas Murray, Director of the Centre for Social Cohesion, best-selling author and commentator; and British journalist and international affairs commentator, Tom Gross.

submitted to CERD should be examined carefully, and within the context of the larger Arab-Israeli conflict.

As all other societies, Israel is imperfect, and it has a responsibility to correct these imperfections. However, aggressive campaigns to greatly exaggerate the flaws, as part of the ongoing effort to delegitimize Israel, should not be assisted by a United Nations framework focusing on the elimination of racism. NGO Monitor urges CERD to subject accusations from individuals and organizations, which are not subject to any democratic accountability regarding alleged racial discrimination in Israel, to careful scrutiny and independent verification.

### **Basic Laws and the Israeli Court System**

In sharp contrast to the false claims in some NGO shadow-reports to CERD, such as in the submission made by the NGO known as Adalah, Israel's Basic Laws protect against racial discrimination.<sup>2</sup> As noted by Justice Aharon Barak, former President of Israel's Supreme Court, "The right to equality is an integral part of the right to human dignity. Recognition of the constitutional aspect of equality derives from the constitutional interpretation of the right to human dignity. This right to human dignity is expressly recognized in the Basic Law."<sup>3</sup>

The Basic Laws are bolstered by statutes and rulings by Israel's Supreme Court.<sup>4</sup> These legislative and judicial norms mandate that racial discrimination against any individual or group is not tolerated. The prohibition against racial discrimination is applied equally at the national and local levels.

**It should also be emphasized that all Israeli legislation, executive decisions, and military operations are subject to judicial review in Israel with no standing impediments.** Any individual or organization can file a claim directly to the Israeli Supreme Court.

The Israeli Jewish population comprises peoples from many nationalities and ethnicities. Arabs, who comprise approximately 20% of the Israeli population, are full citizens and

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<sup>2</sup> The Basic Laws include, *inter alia*: "Basic Law, Human Dignity and Liberty:

1. Fundamental human rights in Israel are founded upon recognition of the value of the human being, the sanctity of human life, and the principle that all persons are free; these rights shall be upheld in the spirit of the principles set forth in the Declaration of the Establishment of the State of Israel. The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state."

<sup>3</sup> H.C. 7052/03, *Adalah v. The Minister of the Interior*

<sup>4</sup> See e.g., Equal Opportunities in Employment Law, 5748 1988, Rights of the Patient Law, 5756 1996, Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law, 5761 2000; Civil Service Law (Appointments), 5719 1959; Government Corporations Law; Penal Law 5739 1977; Pupils Rights Law, 5761 2000; Equal Rights for Women Law, 5711 1951; decisions by the Israeli Supreme Court: H.C.J 6698/95 *Ka'adan v. The Israel Lands Administration*; H.C.J 453/94 *Israel Women's Network v. Government of Israel*; and H.C.J 3648/97 *Stamka v. The Minister of the Interior*.

have the right to vote. Arab parties<sup>5</sup> hold 11 [Knesset](#) seats,<sup>6</sup> and several additional Arab MKs represent the Kadima, Yisrael Beiteinu, and Likud parties. Arabs serve as [judges](#) in the Israeli court system, including an [Arab member](#) of the Israeli Supreme Court. Arabs serve as [high-ranking officers](#) in the Israel Defense Forces (IDF), [as well as government ministers](#), ambassadors, and civil service workers. Arabs are integrated into all aspects of Israeli society, and public facilities such as hospitals, buses, courts and restaurants are open to all, irrespective of race and ethnicity. Despite their deliberate rejection of Israeli citizenship on political grounds, East Jerusalem Palestinians are considered permanent residents who can vote in municipal elections, receive full health and social benefits, gain employment in civil service, enroll in Israeli universities, purchase property, and travel freely throughout Israel. Many East Jerusalem Palestinians are [now applying](#) for Israeli citizenship.

This is not to say that discrimination does not exist in Israeli society; however, such issues confront every society, and disproportionate criticism targeting Israel is counterproductive. Eliminating societal discrimination is a major concern of the Israeli government and court system. Among the many initiatives undertaken to achieve this goal is the implementation of the NIS 3.9 billion (~\$1 billion) Multiyear Development Plan for Israeli Arabs aimed at encouraging development in education, housing, employment, and economic growth. The government has instituted several affirmative action programs for Israeli Arabs and many legislative measures to address discrimination. In addition, the government actively prosecutes individuals inciting racial hatred.

### **Citizenship & Entry Law**

Adalah refers to the Citizenship and Entry Law as “one of the most discriminatory laws in the State of Israel,”<sup>7</sup> and misleadingly claims that the law “prevents Palestinian citizens of the state – since it is overwhelmingly Palestinian citizens who marry Palestinians from the OPT – from realizing their right to a family life in Israel solely on the basis of their national belonging.” Contrary to NGO claims, nothing in the statute prevents an Arab citizen of Israel from marrying a Palestinian located in the Palestinian Authority. Nor does the law prevent that citizen from living with his Palestinian spouse in the Palestinian Authority. As discussed below, this law is in accordance with policy established by the European Union, as well as international human rights norms.

The Citizenship and Entry Law was passed on July 31, 2003, temporarily placing limited restrictions on applications for Israeli citizenship from individuals from the Palestinian Authority as well as from certain countries at war with Israel (Lebanon, Iran, Iraq, and Syria). It was enacted because of persons “who were granted legal status in Israel based

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<sup>5</sup> Arab Parties represented in the Knesset are Hadash (Arab-Jewish coalition), Ra’am Ta’al, and the National Democratic Assembly.

<sup>6</sup> In comparison, the two far-right Jewish nationalist parties (Ichud Leumi and HaBayit HaYehudi) have seven MKs.

<sup>7</sup> The High Court of Justice recently upheld the law after three petitions were filed by various NGOs and MKs: Joanna Paraszczuk, *Boycott Law constitutional despite ‘difficulties,’* JPOST, Jan. 18, 2012, available at <http://new.jpost.com/NationalNews/Article.aspx?id=254084>

on their marriage to an Israeli citizen, and took advantage of their Israeli ID to pass checkpoints and carry into Israel either suicide bombers or explosives.”

As a result of such abuses, [twenty-three terrorist attacks](#), including a March 2002 suicide bombing in Haifa that killed 15, were carried out. Eighty-six percent of all terror injuries occurred in attacks where this law was exploited. During this period, more than 135 Israelis were killed and more than 700 injured.

As noted, nothing in the amended legislation prevents an Israeli/Palestinian couple from living with their spouse in the Palestinian Authority. Moreover, the law contains exceptions for humanitarian reasons such as medical cases or for family reunification. Temporary residence permits may also be granted. Decisions based on the law are appealable directly to the Israeli Supreme Court.

Under international law, countries have the right to set conditions for entry. And such conditions can be made based on the nationality of those who seek to enter. Indeed, the US has a [preferred visa program](#) where nationals of particular countries may visit the US without going through the full visa procedures. Article 1(2) of the Convention on the Elimination of Racial Discrimination specifically declares that distinctions made between citizens and noncitizens do not constitute racial discrimination.

In addition, most countries do not grant automatic citizenship or even residency rights to non-nationals as a result of marriage to a citizen. A [European Council Directive](#) in 2003 on the right to family reunification tackled similar concerns.<sup>8</sup> The EU places restrictions and refuses the right to reunification when a spouse or child “constitute[s] a threat to public policy or public security...In this context it has to be noted that the notion of public policy and public security covers also cases in which a third country national belongs to an association which supports terrorism, supports such an association or has extremist aspirations.”

The “right to family life”<sup>9</sup> does not, as claimed by NGOs, include the right to automatic citizenship or the right to live in a particular country. Moreover, it does not trump higher order rights such as the right to life. There is, in fact, no principle in international law that mandates that married persons can live in whichever country they choose. All the more so, when a significant number of those seeking citizenship do so in order to abuse this status and perpetrate terror attacks against civilians.

### **Other Israeli Legislation**

Adalah falsely claims that “the national legal/constitutional framework in Israel has allowed Israel to enact over 40 laws that are discriminatory on their face, in that they relate only to the rights of Jewish citizens or abridge the rights of Arab citizens, or else

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<sup>8</sup> European Commission Council Directive 2003/86/EC

<sup>9</sup> The right to family life as defined in the ICESCR makes no mention of having the right to live in a particular country. Article 10 simply states that “the widest possible protection and assistance should be accorded to the family.”

use neutral language and general terminology, but have a discriminatory effect on Arab citizens of Israel.” In particular, Adalah has focused on the recent “Budget Foundations Law,” which it calls the “Nakba Law,” and the “NGO Funding Transparency Law.”

Adalah claims that the Budget Foundations Law “violates the rights of Arab Palestinian citizens of Israel to freedom of expression and to preserve their history and culture, and stands to cause major harm to the principle of equality.” This analysis is misleading. The law does not criminalize commemoration of the so-called “Nakba”, a highly offensive term which in Arabic means “the Catastrophe” and refers to the founding of the state of Israel. Rather, the law provides that government funds may not be used for activities commemorating Israel’s Independence Day as a day of mourning. In no way are Arab-Israelis (or any Israelis for that matter) prevented from holding “Nakba” events if they so choose.

Despite claims that the “national legal/constitutional framework in Israel” is discriminatory, Adalah and another opponent of the bill, Association for Civil Rights in Israel (ACRI), were able to file a joint petition to the Israeli Supreme Court challenging the law. The court’s decision created an opening for future appeals regarding the law. Supreme Court President Dorit Beinisch [stated](#): “I accept my honorable friend’s position that this petition is not ripe for judicial discussion. The constitutionality of the [Nakba] law depends to a large extent on how its content is interpreted in practice, and that will be clear only when it is implemented.” The court also reminded petitioners that there was another legal remedy available: to seek an injunction at the Administrative Affairs Court.

### **NGO Funding Transparency Law**

On February 22, 2011, the Knesset passed the NGO Funding Transparency Law, which requires non-profit organizations (*amutot*) to issue quarterly reports on any foreign government donations in excess of 20,000 NIS.

The Israeli public, media, government, and Knesset are conducting an intense debate on massive foreign government funding for highly political NGOs. Important concerns about the manipulation of Israeli democracy by foreign governments through NGO funding, and on the disproportionate influence of these groups, triggered this debate. The basis for these funding decisions, as well as the identity and qualifications of the individuals involved, and the evaluations, if any, remain highly guarded secrets, in violation of basic democratic principles. NGO Monitor has been researching these issues since 2002, including details of foreign (mainly European) government funding. The unique NGO funding policies as applied by European governments to Israel, the lack of transparency in their implementation, and the contrast between public declarations and actions, are central to this analysis.

Unfortunately, the media coverage and NGO reporting on these issues, both in Israel and outside, is often distorted and confused. Transparency and informed public debate, both in Europe and Israel, are vital. It is entirely appropriate for democratically elected representatives to introduce legislation that seeks to address this problematic funding.

Committees debate the legislation, amendments are offered, and rigorous debates takes place – all reflecting a vibrant democratic system.

Nevertheless, Adalah falsely claims that this law requires “invasive financial reporting requirements.” Most, if not all, democratic countries in the world have reporting requirements for organizational funding. The ideas of financial transparency and the public’s right to know are tenets of any democracy, and keys to ending artificial, non-accountable, and non-democratic influence. Legislation requiring transparency, and consistent high-level diplomatic engagement with foreign governments regarding their NGO funding, are central.

## **Bedouin**

The Israeli government has been attempting for a number of years to find a comprehensive satisfactory settlement for the issue of unrecognized Bedouin villages in the Negev. The complicated relationship between the state of Israel and the Bedouin population, coupled with the complex, and at times, unclear, land registration and land tenure legacy of the Ottoman Empire and the British mandate, have compounded the issue. The Bedouin population in the Negev lives a semi-nomadic life inside Israel’s borders, making it difficult to deliver services and collect revenue and information from these tribes. The Israeli government has allocated more than NIS 325 million (~\$86 million) to the Bedouin communities, and provides vocational training and subsidized employment to many Bedouin.

Despite these challenges and massive social funding, many NGOs involved in this issue, including ACRI, the Negev Coexistence Forum, Bimkom, and Adalah, have promoted a consistently partisan position without offering realistic solutions. This includes insisting that the government unequivocally recognize the Bedouins’ maximalist demands and claims of ownership of lands, without taking into account other needs of the state and Israeli residents, such as environmental protection and safety, master plans and building and zoning laws, and ignoring issues that abound in the Bedouin society, including polygamy and the smuggling of drugs and persons. The organizations accuse Israel of having a racist agenda at the base of its policy, discriminating against the “indigenous” Bedouins in the Negev, as compared with Jews that came to the Negev after 1948.<sup>10</sup> The rhetoric and the language that the organizations use deny the Israeli government’s right to apply its laws and sovereignty in the territories on which the Bedouins claim to own.

In order to achieve a fair and permanent resolution of these issues, the Israeli government established the Goldberg Committee Regulation of Bedouin Settlements in the Negev. The Goldberg Committee filed its recommendations in 2009. Subsequently, the government established the Praver committee in order to implement the conclusions of the Goldberg Report. The main goal of these committees was, “to formulate a comprehensive systematic policy that combines dealing with the land issues and planning and solving the settlement issues” and civil society was extensively involved in these

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<sup>10</sup> See e.g., Seth J. Frantzman, Havatzelet Yahel, Ruth Kark, *Contested Indigeneity: The Development of an Indigenous Discourse on the Bedouin of the Negev, Israel*, 17 ISR. STUDIES 78 (2011).

processes. In May 2011, the Prawer Committee submitted its [recommendations](#) and a final plan was approved by the Israeli government on September 11, 2011.<sup>11</sup>

### **National Service/Military Service**

The NGO Adalah claims that “The use of the military service criterion as a condition for acceptance for employment is a major means of discrimination against Palestinian citizens of Israel.” This ideological claim distorts the reality by ignoring that thousands of Arabs, Bedouin, and Druze serve in the Israeli armed forces and that there are many options in Israel for all citizens to take part in either the military or national service.

In 2004, the Israeli Government examined ways to further incorporate the Israeli Arab population into the national service program. This program would provide Israeli Arabs with the same benefits as those Israelis who serve in the IDF. The government recommended that such service would take place in projects within the local Arab communities. Adalah fails to mention that it has been an active campaigner against national service for Arab citizens even within Arab communities, despite significant support among the Arab population to expand such opportunities.<sup>12</sup>

The Israeli legal system has also gone to great lengths to ensure that military service requirements are not used as a tool of discrimination. In 2009, the Tel Aviv labor court, for instance, ruled that the Israel Railways Company could not require its employees to have performed military service since it constituted discrimination against citizens who did not serve in the IDF.<sup>13</sup>

### **Cultural Rights**

Despite acknowledging that Arabic is an official language of Israel, Adalah claims that the “status of Arabic is vastly inferior to that of Hebrew in terms of the resources dedicated to its use and the few opportunities granted to Arabic speakers to enjoy and use their language.” Moreover, the group claims “Arabic is used minimally in the public sphere.”

These claims border on the absurd. Around twenty percent of the Israeli public is primarily Arabic-speaking. There is no international legal norm in the Convention or elsewhere mandating that a State must devote the same resources towards promoting a minority language as is spent on the majority language. There are no restrictions on spoken Arabic in public or private in Israel. And even though eighty percent of the Israeli population uses Hebrew as its first language, Arabic is designated as an official language and appears on road signage and official documents. Arab-speaking students are entitled to receive education in Arabic. Adalah appears to be advocating that Israel

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<sup>11</sup> Ehud Prawer, *Draft 12 – Implementation Team of the Goldberg Report for Regulating Bedouin Settlement in the Negev: A Proposed Outline for Regulating Bedouin Settlement in the Negev*, March 2011.

<sup>12</sup> Sharon Rofee-Ofir, *Major increase in number of Arab volunteers for national service*, YNETNEWS, August 27, 2009, available at <http://www.ynetnews.com/articles/0,7340,L-3768323,00.html>

<sup>13</sup> C.M. 3863/09 *Abdul-Karim Kadi et. al. v. Israel Railways et. al.* (June 9, 2009)

should impose discriminatory language restrictions on the eighty percent of the Israeli public that is non-Arabic speaking – a practice which would be in violation of ICERD and other international legal norms.

### **Contact with Terrorist Organizations**

Adalah claims that “Israeli state policy seeks to impose severe limitations on social, cultural and religious ties between Palestinians in the OPT and Palestinian citizens of Israel, and on contact with the wider Arab and Muslim nations.”

This rhetoric masks the legitimate requirements of the Israeli government to protect its citizens against violence and terrorism carried out by designated terrorist organizations including Hamas, Hezbollah, Islamic Jihad, and Al Qaeda and supported by countries including Iran, Syria, and Lebanon. The facts clearly show that there are no restrictions on freedom of expression or opinion in Israel beyond those often found in other democratic societies, which do not have such ongoing conflicts. In fact, to the extent that Israel has placed any restrictions, they do not rise to the level of those imposed by democratic countries such as France, Switzerland, the UK, etc. Arab representatives in the Knesset frequently deny the legitimacy and advocate the destruction of Israel as the home of Jewish nation, for which they are strongly criticized as part of the political debate.

Several Arab-sector NGO officials and MKs have participated in activities such as the so-called “Free Gaza flotilla” (2010), which deliberately provoked a violent confrontation with the Israeli navy enforcing a blockade necessary to prevent the smuggling of deadly weapons to Hamas and other terror groups. MK Haneen Zoabi was aboard the Mavi Marmara, a boat operated by the Turkish group IHH (which is a member of the Union of Good, a U.S.-banned terror organization), from which Israeli soldiers were attacked when they attempted to board. In most cases, participation in an armed attack against one’s own military forces would be considered treason, but no such charges were made against MK Zoabi. Although a Knesset committee recommended that her parliamentary immunity be revoked, Knesset Speaker Reuven Rivlin declined to submit this to the full Knesset. Instead, on July 13, 2010, Zoabi was stripped of three parliamentary privileges. Nevertheless, she continues to freely travel around the world advocating against the State of Israel, leveling charges of “apartheid” and “war crimes.” In a regime that restricted free speech, Zoabi would not be able to conduct these campaigns. In January 2010, MK Tal a-Sana advocated committing war crimes against Israeli civilians when he addressed a rally of Hamas officials and 100 members of the Free-Gaza Movement chanting, “Katyushas on Ma’alot, Qassams on Sderot.”

Despite such incitement, Israel has not stopped Israeli MKs from cultural and political contact with enemy states. In April of 2010, a-Sana, Zoabi, and several other MKs met with Moammar Qaddafi in Libya – a country officially at war with Israel which generally [denies](#) admission to holders of Israeli passports. During the visit, Qaddafi [called](#) for the destruction of the Jewish State.

In most other countries of the world, including many democratic states, the activities of Zoabi and a-Sana would have resulted in criminal prosecution, forced removal from the legislature, or even imprisonment.

### **Antisemitism, Incitement to Genocide, Promotion of Ethnic Cleansing**

Numerous “human rights” NGOs welcomed the signing of the May 4, 2011 reconciliation agreement between the Palestinian Authority and Hamas, as well as other terror organizations including Islamic Jihad and the Popular Front for the Liberation of Palestine (PFLP). Few NGOs called on Hamas or these other groups to renounce their support for deliberate attacks on the civilian population, terrorism, incitement to genocide and the destruction of Israel.<sup>14</sup> NGOs also ignored Security Council Resolution 1373 that prohibits any direct or indirect material or financial support for terror organizations. This highlights the NGOs’ role as political activists, as distinct from moral watchdogs.

NGOs consistently fail to condemn the racist and discriminatory propaganda of Hamas. Refusing to denounce Hamas’ incitement to genocide and antisemitic rhetoric is in violation of the spirit of CERD, which NGOs purport to uphold. Many of these same organizations use highly offensive rhetoric such as “Judaization,” an anti-Jewish racist term which suggests that the presence of Jews is alien and unacceptable. Article 4 of the Convention states: “States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form...” It is immoral for human rights organizations to use phrases such as “Judaization,” which explicitly endorses ethnically-based exclusion.

### **Conclusion**

Unfortunately, the history of reporting by UN frameworks on human rights in Israel has been characterized by biased mandates, false and unverifiable allegations, double standards, and hypocrisy – from Jenin (2002) through Goldstone (2009), as well as reports by special rapporteurs Jean Ziegler, John Dugard, and Richard Falk. The results have been highly counterproductive to promoting human rights.

Given the impact of CERD’s review and Concluding Observations regarding Israel’s compliance with the Convention, it is important that its work is credible, accurate, and impartial and will not repeat the flaws and negative impacts of previous UNHRC reports related to Israel. These elements will be undermined by undue reliance on politicized NGOs that are in fact part of the conflict. Instead of documenting human rights abuses based on universal standards, these NGOs focus disproportionately on political attacks directed at the Israeli government and the Israel Defense Force (IDF), and many do not

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<sup>14</sup> The Hamas Charter calls for the elimination of Israel: “Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it...our struggle against the Jews is very great and very serious. It needs all sincere efforts.” The Charter also calls for the killing of Jews: “The Day of Judgment will not come about until Moslems fight the Jews...when the Jew will hide behind stones and trees.”

refer to the context of Palestinian terror that provides the logic behind Israeli policies. Instead, the reactions to terror and ideological rejectionism are simply branded by these NGOs as “racist” or “discriminatory” without providing a complete analysis of all factors involved, or of universal standards. The uncritical acceptance and repetition of the claims and allegations of these NGOs by the Committee will greatly diminish the impact of CERD’s work and will harm the universal principles the international community sought to uphold when it adopted the ICERD.