

SHADOW REPORT

United Nations Committee Against All Forms of Racial Discrimination

Suggested Issues for Consideration Regarding Israel's Combined 14th, 15th, and 16th
Periodic Report to the UN Committee on the Elimination of All Forms of Racial
Discrimination (CERD)

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The Mossawa Center, the Advocacy Center for Arab Citizens in Israel

The Mossawa Center is the Advocacy Center for the Arab Citizens in Israel. Established in 1997, the Center is a non-profit, non-governmental organization that works to promote the social, economic, cultural and political rights of the Palestinian Arab citizens in Israel and the recognition of this community as a national indigenous minority, with their own national, cultural and historical distinctiveness. Mossawa, which takes its name from the Arabic word for 'equality', promotes a democratic society and acts against all forms of discrimination based on race, nationality, religious affiliation, social status, gender and disability.

Israel Religious Action Center (IRAC)

The public and legal advocacy arm of the Reform Movement in Israel, IRAC was founded in 1987 with the goals of advancing pluralism in Israeli society and defending the freedoms of conscience, faith, and religion. Today IRAC is the preeminent civil and human rights organization in Israel focusing on the issues of religion and State and is the leading Jewish organization that advocates on behalf of a broadly inclusive Israeli democracy, infusing social justice advocacy with the spiritual energy and humane worldview of progressive Judaism.

The Hotline for Migrant Workers (HMW)

The Hotline for Migrant Workers (HMW) was founded in 1998 by a group of concerned citizens disturbed by the exploitation and abuse of migrant workers in Israel. It is a non-partisan, non-profit organization to defend the rights of migrant workers and refugees in Israel, and to combat human trafficking. We aim to build a more just, equitable and democratic society in which the human rights of all people are honored. Our activities consist of: crisis intervention, legal action, and public policy.

The Coalition Against Racism in Israel

Established in 2003, the Coalition Against Racism in Israel brings together thirty civil society organizations working with different ethnic and religious groups including Arabs, Russians, Ethiopians, Mizrahi (Middle Eastern) Jews, Reform Jews, refugees, and migrant workers to work towards a vision of a country without racism and discrimination. The Coalition acts in response to activities, materials and expressions of discrimination, persecution, humiliation, contempt, hatred, hostility, or violence against any person or population group on the basis of race, ethnicity, political affiliation, religion, or nationality. Further information about the Coalition can be found at: www.stopracism.org.

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Executive Summary

The Mossawa Center, the Advocacy Center for Arab Citizens in Israel, Israel Religious Action Center, and the Hotline for Migrant Workers, as representatives for the Coalition Against Racism in Israel, are pleased to submit this non-governmental shadow report to the Committee in advance of its review of Israel's combined 14th - 16th Periodic Report (CERD /C/ISR/14-16). Israel's submission lacks information on the Occupied Palestinian Territories, gives insufficient information on the effects of State legislation and policy on the ground, and often misrepresents the reality of discrimination in the State. This report represents a short summary of issues that we feel are important for the Committee to consider; however, it does not represent the full range of discriminatory practices and policies in Israel.

The report details Israel's policies and its activity in areas relevant to the Committee, and deals with a wide array of discrimination in Israel. The report focuses primarily on Articles 2, 4, and 5 of the Convention by looking at: issues of racial incitement and the State's acquiescence to racism, especially racist policy implemented in the context of religious and political establishment; discriminatory policies and legislation facing asylum seekers and migrant workers in Israel; and a case study of the Bedouin community in the Naqab (Negev) as a case study of extreme discrimination within the Arab minority. The report does not attempt to address the host of issues raised by the State of Israel in its report, but rather addresses those topics, which are of particular concern to The Mossawa Center, Israel Religious Action Center, and the Hotline for Migrant Workers and on which we can provide unique insight and information derived from our work. As such, the report also does not cover all cases of discrimination in Israel: issues of discrimination against sub-groups of the Jewish population are not covered since our organizations do not have the expertise and sufficient information on these issues. The lack of such information should not be construed as evidence for absence of such discrimination.

The report is constructed according to the articles of the International Convention on the Elimination of All Forms of Racial Discrimination. Each issue is addressed first by a general statement and then specific examples are brought, which demonstrate the problem. At the end of the sections we offer conclusions and recommendations based on the facts presented. We hope that the Committee will find this report useful and thank the Committee for considering this report.

List of Suggested Questions

1. Does the State of Israel hold a comprehensive plan to fight racism, specifically racial incitement and hate propaganda? What is the total State Budget allocated for education programs designed to combat racism and promote tolerance among the different ethnic and religious groups in Israel?
2. Why is the criminal offense of incitement to racism not prosecuted effectively against public figures, specifically political and religious leaders?
3. Why are criminal investigations of incitement by public figures and religious figures not conducted within a reasonable timeframe, in contrast to criminal investigations of incitement by private parties?
4. Why hasn't the State established a team to investigate and prosecute cases of incitement in order to accelerate response time?
5. Why hasn't the legal definition of racism been amended to be all-inclusive?
6. Why hasn't the State established incitement as a civil offense in addition to a criminal offense?
7. Why hasn't the State formulated a coherent policy in regards to disciplinary action against State employees who participate in racial incitement? Why haven't these individuals been dismissed or subjected to disciplinary measures?
8. Why did the State pass the Law of Citizenship and Entry into Israel (Temporary Order) that denies Palestinian citizens of Israel the right to family unification with spouses from the Occupied Palestinian Territories?
9. Why don't all asylum seekers who reach Israel have access to due process for examining their asylum request, regardless of their country of origin?
10. Why isn't the State's social welfare service based on individual's socio-economic status as opposed to the completion of military/national civil service?
11. Why hasn't the State recognized the Arab Bedouin community's historical claims to their lands? Why haven't they offered Arab Bedouin communities, who have been evacuated, new locations on or near their historical homelands?
12. Why hasn't the State used the same planning instruments and criteria to plan Bedouin villages as it does for Jewish family farms, kibbutzim, and cities?
13. Why hasn't the State recognized the Regional Council for Unrecognized Villages and negotiate directly with them about practical solutions to land claims in the Naqab (Negev)?
14. Why hasn't the State provided unrecognized Bedouin villages with the same services given to other Israeli citizens, including: running water, electricity, and transportation?

Violations of CERD: Article 2

Discriminatory Legislation

In the past two years, the Knesset has introduced a wave of anti-democratic and discriminatory legislation. Some of the bills introduced are governmental bills (i.e., bills proposed by the executive branch), while others are “private” bills, introduced by members of Parliament and receiving the support of the government. In this report, we review legislation and proposed legislation by the government as well as “private” legislative proposals that have received governmental support.

Cooperative Societies Ordinance (Amendment 8 –Acceptance Committees in Community Settlements in the Galilee and the Negev) – 2011

The law grants “acceptance committees” in community settlements of under 400 families¹ the authority to reject candidates not suitable to the “basic outlook of the community,” and its social fabric. The law enables members of a community settlement to exclude any person not aligned with their world-view. The law provides the residents of these communities the authority to discriminate. The communities can keep out individuals and families because they disapprove or dislike characteristics, such as nationality, religion, or way of living - single parents, married to foreigners, etc. The law came into force in March 2011.

In March 2011, a group of civil society organizations petitioned the High Court of Justice asking the court to invalidate the law because it provides a license to discriminate. The petition is currently pending.

Israeli Nationality Law (Amendment - Cancellation of Citizenship for an Act of Terrorism or Espionage) - 2011

The law, which came into force in March 2011, allows the revocation of citizenship for people convicted of an act of terrorism or espionage. While protecting the security of the State from those wishing to harm it is an important goal, this is not a proportionate solution. Criminal law should handle cases of terrorism and espionage. Citizenship is a basic right. Without it, other rights cannot be fulfilled. This law effectively conveys a message to Israel’s non-Jewish citizens, signaling to them that their citizenship is a privilege and not a right. The law came into force in March 2011.

The Prevention of Damage to the State of Israel through Boycott Law – 2011

This law states that individuals or organizations who initiate, promote, or publicize a call for an economic, cultural, or academic boycott against a person or entity merely because of its affiliation to the State of Israel, an Israeli institution, or a specific region under Israel control are responsible for compensation of damages, including payment for damages without proof. The law penalizes a form of non-violent protest against government policies and severely infringes

¹ The word settlement does not refer here to settlements in the OPT but rather to a form of municipal organization.

on the fundamental right to freedom of expression. The law discriminates against those with certain political views within Israel and above all, those who want to protest against the occupation and settlements. The law came into force in July 2011.

Law to Prevent Infiltration – 2012

In January 2012, the Knesset passed a government-sponsored law that criminalized the “infiltration” of African asylum seekers into Israel. The law orders that asylum seekers be imprisoned for at least three years upon entry to Israel and that asylum seekers from “enemy states” (such as Sudan) serve life sentences. The law discriminates among classes of asylum seekers based on their nationality and country of origin – citizens of certain countries will be detained for three years while others will face indefinite detention, despite committing the same “crime” of entering Israel illegally. Current Israeli law does not allow for the detention of persons without legal proceedings, unless such detention is designed to ensure the deportation of the person. This law was passed in January 2012.

The Law of Citizenship and Entry into Israel (Temporary Order)

The law prevents Palestinian spouses of Israeli citizens from gaining legal status in Israel. The law was first passed in 2003 as a “temporary order” and recently extended in January 2012. The law is discriminatory since the vast majority of Israeli citizens who marry Palestinians are Palestinian citizens of Israel. In 2007, MK Zahava Galon and civil right organizations petitioned the High Court of Justice asking the court to declare the law unconstitutional and thus void.² The petition was heard in an extended panel of 11 Judges and was dismissed (6:5) in January 2012. In the opinion, Justice Asher Grunis wrote, “human rights are not a prescription for national suicide.”³

Budget Foundation Law (Amendment 40) – 2010

According to the law, also known as the “Nakba Law”, the Minister of Finance can reduce the governmental support allocated to a body funded or supported by the government in an amount of up to three times the body’s expenditure if any of the following criteria are met: the organization denies the existence of Israel as a Jewish and democratic State; incites racism, violence or terror; supports an armed conflict or terrorist act by a State or terrorist organization who is hostile to Israel; marks Israeli Independence Day or the day of establishment of Israel as a day of mourning; engages in acts of vandalism or physical degradation, dishonoring the state flag or emblem. The law, especially the prohibition to mark Israeli Independence Day or the day of establishment of Israel as a day of mourning, harms the rights of the Arab minority in Israel to preserve their own historical memory by using the power of the majority to suppress the national narrative of the Arab minority. The law came into force in March 2011. In May 2011, civil society organizations petitioned the High Court of Justice asking to declare the law unconstitutional. In January 2012, the court denied the petition.⁴ The judgment stated that the law

² H CJ 466/07 Zahava Galon v. Attorney General.

³ Harriet Sherwood, *Court Upholds Law Banning Palestinian Spouses from Living in Israel*, The Guardian (Jan. 12, 2012), <http://www.guardian.co.uk/world/2012/jan/12/israel-palestinian-spouses-ban>.

⁴ H CJ 3429/11 Orthodox Arab High School Graduates in Haifa v. Minister of Finance.

raises complex questions of public importance, which are foundational to issues that divide Israeli society. However, the Court avoided discussing these issues by stating that the legal question was not ripe for a decision in the absence of concrete circumstances.

Proposed amendment to the Population Registry Law (Amendment - Declaration of Loyalty to the Country, Flag and Anthem) – 2010

According to the proposed amendment, anyone who becomes a citizen will have to pledge allegiance to Israel as a Jewish, Zionist, and democratic State and will be required to serve military or national civil service. The demand to pledge allegiance to Israel as a Jewish, Zionist State sends a discriminatory message to Israel's non-Jewish citizens and those seeking to acquire citizenship that the State does not belong to them. Although the Ministerial Committee on Legislation rejected the amendment, the government approved a limited version of it in October 2010.

Racial Incitement by Political and Religious Leadership

Throughout 2008, extending into the peak of the local and national election campaign in December 2008 - February 2009, and since the election of the extreme right wing government, there has been continuing political incitement against the Arab community from members of the Knesset and high profile party leaders. Israel is witnessing one of the worst periods in terms of ethno-nationalism and discriminatory behavior by Israel's political leadership. Increasingly, political incitement is directed against the Arab Palestinian minority as well as other marginalized groups in Israel. This incitement, as well as the volume and severity, have a devastating impact on the human rights and liberties of minority groups, and are inconsistent with the State's obligations under CERD. Politicians do not take the necessary measures to protect the Arab minority in Israel from verbal and physical attacks, and regularly participate in this extremely harmful behavior and declarations both through tacit approval or direct participation. The following are examples of incitement emanating from the political leadership in Israel:

Foreign Minister and Deputy Prime Minister Avigdor Lieberman

Avigdor Lieberman has continuously spoken against the Arab political leadership in Israel since becoming Foreign Minister in 2009. Lieberman was quoted saying to Arab Knesset Members "[W]e will take care of you like we take care of every terrorist," indirectly equating Arab Members of the Knesset with terrorists.⁵ On August 5, 2009 Lieberman stated that Arab MK Ahmad Tibi, head of the United Arab List "is more dangerous to Israel than the Islamic Resistance Movement, Hamas, and the Islamic Jihad" and that Israel's "main problem is not the Palestinians but Ahmed Tibi and others like him."⁶ The statement was made in response to Tibi's statement, during the Fatah conference in Bethlehem in August 2009, that the future Palestinian

⁵For further examples of incitement, *see also*, the Mossawa Center, *The Limits of Freedom of Expression of the Arab MKs*, (2007) (Outlines the conflict between Arab elected representatives and the law enforcement entities between the years of 1999 and 2007 – available on request from the Mossawa Center).

⁶Jack Khoury, *Lieberman: MK Tibi Endangers Israel More Than Hamas, Jihad*, Ha'aretz, (August 10, 2009), <http://www.haaretz.com/hasen/spages/1105441.html>.

State should be free of Israeli settlers. This is yet another attack by Lieberman against the political legitimacy of Arab MKs, adding to a catalogue of racial incitement targets at high profile Arab leaders which serves to further undermine the legitimacy of the political participation of the Palestinian Arab citizens of Israel.

While incidents of incitement against the Arab minority by Foreign Minister Lieberman and other political leaders from coalition parties are rarely investigated, and usually considered to fall within the exercise of freedom of speech, Arab political leaders frequently face indictments by the courts on charges of incitement and disloyalty to the State of Israel when expressing views contradictory to governmental positions. Examples of this policy of double standards include MK Mohammed Barakeh's loss of parliamentary immunity and subsequent prosecution for insulting an IDF officer during demonstrations, MK Sa'id Naffaa's indictment and loss of immunity on charges of visiting an enemy state, MK Haneen Zoabi's loss of immunity for her participation in the Gaza Flotilla in May 2010, and the Head of the Islamic Movement's northern branch Raed Salah's indictment on charges of public disorder and for allegedly telling a police officer that he was a racist, murderer, and had no honor.⁷

Mainstreaming the Idea of Ethnic Transfer

Throughout his 2009 election, Avigdor Lieberman put forward the idea of transferring the Arab population to the future Palestinian State in exchange for Jewish settlement blocs in the West Bank. Although the idea of transfer appeared like mere election rhetoric without a timetable or framework for implementation, the effect of the idea of transferring almost 1.6 million citizens of Israel against their will seriously undermines the legitimacy of the Arab minority's existence as equal citizens of the State of Israel. In his position as Foreign Minister, Lieberman has continued to voice the idea of ethnic transfer as a strategy for conflict resolution, even during high-level political and diplomatic missions abroad.

For example, on May 4, 2009, in an exchange with his Italian counterpart, Mr. Franco Frattini, Foreign Minister Avigdor Lieberman raised the idea of population transfer of highly concentrated areas of the Palestinian Arab minority from Israel to a future Palestinian State. More recently, in late September 2010, the Foreign Minister presented draft plans of population exchange, under the guise of defining borders, to the United Nations General Assembly as part of an eventual peace agreement between Israel and the Occupied Palestinian Territories.⁸

Early in February 2010, deputy Foreign Minister Danny Ayalon commented on the peace process, stating that a deal between Israel and Palestinians could include a land and population swap of Arab towns and villages in Northern Israel's region, known as "The Triangle" in exchange for Israeli settlement blocs in the West Bank.

Internal Security Minister Aharonovitch Uses Anti-Arab Slang

Israel's Internal Security Minister, Yitzhak Aharonovitch, a member of Foreign Minister Avigdor Lieberman's Yisrael Beiteinu party, was caught on film saying to a police officer that he

⁷ Vered Livne, *Stop Helping the Radicals*, YNet News, (February 25 2007), <http://www.ynetnews.com/articles/0,7340,L-3369199,00.html>.

⁸ Barak Ravid, *Lieberman presents plans for Population Exchange at UN*, Ha'aretz, (September 28 2010), <http://www.haaretz.com/news/diplomacy-defense/lieberman-presents-plans-for-population-exchange-at-un-1.316197>.

had to apologize to the Minister for his appearance asking “What do you mean dirty? You look like a real Araboosh.”⁹ The use of this highly derogatory Hebrew slang for ‘Arab’ with no consequences reflects the impunity of coalition members and influential political figures for harmful racist rhetoric and behavior.

Housing Minister Ariel Atias Acts against Integration

On July 2, 2009, MK Atias proclaimed that preventing the spread of the Palestinian Arab population into various parts of Israel was no less than a national responsibility. “I see [it] as a national duty to prevent the spread of a population that, to say the least, does not love the State of Israel,” MK Atias told a conference of the Israeli Bar Association, which focused on reforming Israel’s Land Administration. The Shas Minister referred to Harish, a housing project build for the Haredi community in Northern Israel, saying that “populations [that] should not mix are spreading there. I don’t think that it is appropriate [for Arab and Jews] to live together.”¹⁰ Minister Atias’ statements reflect the discriminatory ideology that transforms the Palestinian Arab citizenry into a “demographic threat.” Furthermore, it exemplifies the government’s preference for favoring a separatist social policy, rather than building a constructive and unifying framework for housing and development based on principals of equal civil rights.

Umm Al-Fahem and Incitement

For the past 10 years, the city of Umm Al-Fahem has been a target of the extreme Jewish movement in Israel. On February 10, the day of the 2009 State elections, Baruch Marzel, leader of the ethno-nationalistic, right wing Jewish National Front and previous member of the outlawed, extremist Kach party, planned to supervise the collection of ballots in the Palestinian Arab city of Um Al-Fahem. Ultimately, high levels of resistance and protest from the citizens of Umm Al-Fahem who refused to “allow a racist into their homes”¹¹ turned Marzel away. He was initially to be replaced by equally right wing MK Arieah Eldad of the Ehud Haleumi party, which would have further intensified the tensions.¹² A council member of Umm Al Fahem said, “We welcome any other Jewish person who does not wish to expel us.” The city’s protests were in response to the government’s tacit approval of both Marzel’s and Eldad’s constituents nationalistic racism shown by their presence during elections. Ultimately, when they were banned from the town, MK Eldad¹³ and Marzel, demonstrated near the city, calling for citizens of the city to have their citizenship removed and for their expulsion from the State. While they demonstrated, they were accompanied and protected by over 3,000 State security personnel, in a

⁹ BBC News, *Israel Minister in Arab Slur Row*, (June 17 2009), http://news.bbc.co.uk/2/hi/middle_east/8104723.stm.

¹⁰Guy Lieberman, *Housing Minister: Spread of Arab Population must be Stopped*, Ha’aretz, (February 7 2010), <http://www.haaretz.com/news/housing-minister-spread-of-arab-population-must-be-stopped-1.279277>.

¹¹Eli Ashenazi and Yoav Stern, *Rightest MK Swept out of Village after Violent Protest*, Ha’aretz, (February 10 2009), <http://www.haaretz.com/hasen/spages/1063070.html>.

¹²Yoav Stern, *Resident of Umm Al-Fahem will Try to Prevent Baruch Marzel from Entering the City*, Ha’aretz, (February 9 2009), <http://www.haaretz.co.il/hasite/spages/1062810.html>.

¹³(During Eldad’s 2009 election campaign he handled a snake, telling voters that after serving alongside Arabs in the Knesset (Israeli parliament) he was no longer afraid of serpents).

deliberate provocation of Arab population of the city.¹⁴ The implicit government support for Eldad and Marzel, two right wing extremists and representative of anti-Palestinian ideology enforces the severe lack of commitment to the protection of the Arab minority and sends a threatening message regarding the status of the Palestinian Arab minority's citizenship.

A similar message was delivered to the citizens of Rahat, Israel's largest Bedouin city when provocative right wing activists on July 26 2009, marched to protest the 'illegal' construction in the south of Israel 'while Jewish outposts in the West Bank are being evacuated' under US pressure.¹⁵ Hundreds of residents of Rahat held a counter demonstration and several minor confrontations between the rightists and the local residents (mainly Bedouin citizens) took place. Firstly, the tragic irony of protesting the "illegal" housing projects in the Negev is apparent when compared to the consistent building of settlement homes in the West Bank despite their linkage to increased conflict and international pressure to stop construction. In addition, such hostile right wing demonstrations, spearheaded by well-known political figures, amount to unchecked public racial incitement against the indigenous minority population and thus infringe on basic human rights. The inaction of the government against this behavior also reinforces the inaccessibility of legal recourses for the Palestinian Arab citizens of Israel.

Mayor of Nazaret-Illit – Shimon Gafso makes Anti-Arab Statements

In June 2011, Shimon Gafso, Mayor of Nazaret-Illit, gave an interview to an Arabic newspaper, based in the neighboring city of Nazareth. During his interview he declared unequivocally that "his city" would never be a "mixed city," despite its high percentage of Arab residents. Mr. Gafso further stated that he would never house a mosque and he would never permit Christian residents to light Christmas trees in public places. According to Mr. Gafso the call to prayer over the loudspeakers in Nazareth is a "provocative act." In his statements, Mr. Gafso expressed his willingness to use violence against Arab citizens during the clashes between the Arab community and the police in October 2000. He said, "If I had participated in the events, then there would have been more Arabs killed."¹⁶

Incitement from Political Leadership against Other Minority Communities in Israel

There is a reoccurring and alarming correlation between racial, religious, and homophobic speech and action originating from the highest political levels, and violence within and between different ethnic communities in Israel. Specifically, unchecked incitement in the Knesset and in the media has fed tensions between both Arabs and Jews and also within different religious sects in the Jewish community.

¹⁴Labib Nasir, *Israeli Police Avert Clash between Rightists, Arabs*, Reuters, (February 10 2009), <http://uk.reuters.com/article/idUKLA704028/>.

¹⁵Jack Khoury and Yanir Yagna, *Rahat Residents Pelt Police with Rocks as Rightists March through Town*, Ha'aretz, Ha'aretz, (July 26 2009), <http://www.haaretz.com/hasen/spages/1102908.html>.

¹⁶Coalition Against Racism, *The Coalition Against Racism Demands Legal Action against Mayor Natzirit Illit*, (July 19 2011), <http://www.fightracism.org/en/Article.asp?aid=104>.

Governmental Support of Organizations Advancing Racial Discrimination

In recent years there has been growing evidence of private organizations involved in racist activities and the dissemination of racist publications. Even more troubling is the allocation of State funds to such organizations. Support of racist organizations is inconsistent with the State's obligations under CERD and democratic values. Withholding support from these organizations would create negative incentive to organizations to be involved in racist activities.

The criteria for the allocation of governmental funds are largely technical and bureaucratic considerations without oversight or scrutiny. There are no substantive criteria for operations of the organizations outside the specific activity for which it requests State support. Additionally, there are no provisions preventing the allocation of funds to institutions involved in racist activity or incitement to racism (or to violence). The only provision that deals with racist incitement is the above mentioned newly enacted Amendment to the Budget Foundation Law which provides the Ministry of finance with the authority to reduce support given to an organization involved in racist acts. The following are a few examples that illustrate the problem:

Od Yosef Hai Yeshiva

Od Yosef Hai Yeshiva (a rabbinical college) is an association located in Itzhar, a settlement in the Occupied Palestinian Territories. The association operates two Yeshivas, a seminary, and a religious publishing house. The heads of the association are Rabbis Isaac Ginzburg and Isaac Shapira.

Rabbi Isaac Ginzburg published a series of racist publications and actively supports acts of violence against Arabs, including authoring a pamphlet praising the deeds of Baroh Goldstein, who executed the massacre in the Cave of Machpelah in 1994 in which 29 Muslims were murdered. In 2003 Ginzburg published a book denying Arabs the right to exist. He was indicted, however, the indictment was dropped when he apologized and pledged not to publish any materials that incite in the future. Rabbi Ginzburg also gave his consent to the book "The King's Torah" which gives individuals permission to kill Gentiles. The book was written by Rabbi Isaac Shapira. Rabbi Shapira was arrested on suspicions for his connection to an arson attack on a masque in an Arab village on December 2010.¹⁷ The association's website is filled with assertions supporting "Price Tags" attacks, which is a code name for Jewish attacks on Palestinian civilians and their property. For example:

Today, when the security forces (their commanders and those who send them) do not fight the Arab enemy like they should, they fear losing supposed "cooperation" and hesitate to strike at those who arise to kill us – the rear needs to know that it depends on them! If every Jew and Jewess will understand and declare that there is a need to fight, that there is strength and power to fight, we can bring about real warfare and a real victory.¹⁸

¹⁷Rabbi suspected in West Bank mosque arson released, BBC News (Jan. 28, 2010), http://news.bbc.co.uk/2/hi/middle_east/8482700.stm.

¹⁸ Od Yosef Hai website (2012), see <http://www.odyosefchai.org.il/TextHome/TextInfo/473>.

Despite these clear racist statements, the Ministry of Welfare and Social Services allocated dozen of thousands of New Israeli Shekels (NIS) to Od Yosef Hai Yeshiva, yearly, between the years 2008-2010. The Ministry of Education allocated hundreds of thousands of NIS to the Yeshiva during 2006 and 2007.

IRAC appealed to the Attorney General and requested an initiation of a criminal investigation against the Yeshiva. IRAC also appealed the Ministry of Education and the Ministry of Welfare and Social Services requesting that funding be stopped. The Ministry of Welfare and Social Services replied that the allocating committee stops funding an association only if it has knowledge concerning a criminal investigation held against the association itself, or a director of the association. However, the organization continued to receive funding. The Ministry of Education replied that the association was not receiving funds from the Ministry of Education any longer, and that the Attorney General was looking into the matter.

The Hemla Association and the Lehava Organization

Hemla is a non-profit organization that operates to help the needy.¹⁹ In 2002 the Association clarified its goals: “To help girls from broken homes that are in danger of forced conversion” and “assistance for the hilltop people in Judea and Samaria.” Since 2005 Hemla has been receiving regular funding of 600,000 - 700,000 NIS a year from the Ministry of Welfare and Social Services.²⁰

Hemla is closely tied to “Lehava” (“Flame,” an acronym for “Preventing Assimilation in the Holy Land”), an organization that operates to “save Jewish girls that been tempted to establish relationships with Gentiles.” The two organizations share the same organizational infrastructure: Hemla’s public relation director is Bentzi Gopstein, who is also identified as the director of Lehava. Hemla’s hostel director is Rachel Baranes, who is in close contact with Lehava. In fact, since Lehava is not an officially registered NGO, it uses the resources and official status of Hemla for its operations. In an interview held on October 2010 Baranes said “Hemla was established for the purpose of building a warm home in order to help girls - saving Jewish girls from assimilation, whether it’s foreign workers, Arabs, [or] people with no connection to our religion.” The two organizations are basically two branches of the same organization.

IRAC appealed to the Attorney General in each one of the cases detailed below requesting an initiation of a criminal investigation against Lehava on the grounds of incitement to racism:

- In December 2010, the organization published a letter signed by dozens of Rabbis’ wives calling on young Jewish women not to engage in contact with Arab men.
- Lehava has called for the public to report about citizens that sell or rent their apartments to Arabs. The information will be published and after verification, the organization would act to “prevent the disaster from happening.”²¹

¹⁹Uri Blau and Shai Greenberg, *A Strange Kind of Mercy*, Ha’aretz, (May 27, 2011),

<http://www.haaretz.com/weekend/magazine/a-strange-kind-of-mercy-1.364417>.

²⁰ *Id.*

²¹Yair Altman, Ynet News (Dec. 12, 2010), <http://www.ynetnews.com/articles/0,7340,L-3998121,00.html/>.

- In January 2011, Lehava announced a new initiative, which grants “kosher certificates” to businesses that do not employ Arabs.²²
- In June 2011, the organization established a “coast guard” for “the protection of our girls in beaches around Israel.” The purpose is to protect Jewish girls at beaches and prevent harassments by Arab men pretending to be Jewish.²³
- In July 2011, the organization held a campaign calling on parents not to send their daughters to work in the Gush Etzion branch of Rami Levi, a supermarket chain, for fear they would make contact with Arabs.²⁴
- Around Yom Kippur (the Jewish Day of Atonement) in 2011, Lehava issued a campaign to encourage atonement for individuals that were encouraging marriages between Arab men and Jewish women.²⁵
- In November 2011, the organization called for a boycott against the Israeli version of the reality show “The Amazing Race” because it featured a mixed couple (an Arab man and a Jewish woman).²⁶ Bentzi Gopstein, the director of the organization, was quoted as saying: “The program producers encourage the severe phenomenon of mixed couples legitimizing the murder of the seventh million ... Assimilation is a continuation of the Holocaust.”

IRAC appealed to the Attorney General and requested that he initiate a criminal investigation against Lehava and Hemla and put a stop to their funding by the government. No response has been received from the Attorney General.

The ongoing passage of discriminatory legislation, as well as racial incitement by political and religious leaders with the tacit agreement of the State are clear violations of the CERD Article 2(1)(b)(c)(d) and Article 4(c).

Racial Discrimination against Asylum Seekers by Municipalities

Eilat Municipality

The southern city of Eilat has seen a number of asylum seekers take up residency in its neighborhoods, because a significant number work in the hotel industry. The Mayor of Eilat, Meir Yizhak Halevy, continuously voices his opposition to the presence of African asylum seekers in the city. Halevy has written numerous public letters to government officials, decrying the “infiltration” of “illegal African workers,” which, according to one letter to the Minister of

²²*Rightists Seek to Reward Firms that don't Hire Gentiles*, Ha'aretz (Feb. 2, 2011), <http://www.haaretz.com/print-edition/news/rightists-seek-to-reward-firms-that-don-t-hire-gentiles1.340699>.

²³Yair Altman, *Jewish Group Fights Beach Harassment*, Ynet News (July 17, 2011), <http://www.ynetnews.com/articles/0,7340,L-4096350,00.html>.

²⁴Chaim Levinson, *Rabbis Wives Urge Women: Stay Away from Arabs*, Ha'aretz (Dec. 28, 2010), <http://www.haaretz.com/news/national/rabbis-wives-urge-israeli-women-stay-away-from-arab-men-1.333841>.

²⁵Kobi nahshoni, *Campaign: “For the Sin We Have Committed by Renting Houses to Arabs,”* Ynet News (Oct. 05, 2011), <http://www.ynet.co.il/articles/0,7340,L-4131935,00.html>.

²⁶Joshua Brener, *“Amazing Race” Boycott the Show Because of Couple Involved*, Walla! (Nov. 1, 2011), <http://e.walla.co.il/?w=/6/1873300>.

Defense, are causing “damage to Eilat’s demographic makeup, economic status and image.”²⁷ The Mayor also threatened “harsh sanctions” against asylum seekers if the government does not step in to solve the problem.²⁸

In July 2010, the Eilat municipality organized a protest against the presence of asylum seekers in the city. The municipality sent out a call to employees of the Eilat municipality to attend the protest, stressing the importance of their presence there. The call stated: “For a long time Eilat has been dealing with the mass infiltration of migrant workers who came to make Israel their home, while posing as refugees from war zones.”

In January of 2011, the municipality launched a campaign against the renting of apartments to asylum seekers. The municipality, using taxpayers’ money, distributed 1,500 red-colored flags and thousands of red ribbons and stickers about keeping Eilat “safe” from asylum seekers and “putting an end to the infiltration.” Eilat Mayor Halevy explained the campaign: “I want each person who rents his home to infiltrators to feel uneasy in front of his neighbors when he sees red flags that send the message of collective solidarity in the struggle [against asylum seekers].”²⁹

Bnei Brak Municipality – Rabbis’ Letter

The municipality of Bnei Brak, a city in the center of Israel, has engaged in a discriminatory policy toward migrant workers and asylum seekers. The city is a home to a small community of a few hundred Eritrean asylum seekers.

In late 2010, following incitement by Rabbis and local anti-immigrant activists, the Bnei Brak municipality dispatched inspectors to apartments that were illegally subdivided and rented to asylum seekers. The inspectors arrived at approximately 100 apartments based on information provided by the public, after anti-immigration activists put up public notices calling on the residents to report to them where asylum seekers dwell.³⁰ The municipality also threatened Israelis who rented apartments to asylum seekers by claiming that it would publicly publish their names as a means to shame them. This was done to convince homeowners to evict refugees.³¹ The activists launched a hotline that residents could call and provide information about neighbors who rented apartments to migrant workers and asylum seekers. The information collected from the hotline was forwarded to the municipality.³²

In November 2010, municipality inspectors ordered dozens of families of asylum seekers to leave, and following the visits of the inspectors, electricity and water were cut from apartments of asylum seekers.³³ Additionally, the municipality indicted residents for subdividing

²⁷ Benni Toker, *Eilat Mayor: Let the Minister of Defense Protect Our Safety*, Arutz 7 (May 19, 2011), <http://www.inn.co.il/News/News.aspx/220010>.

²⁸ Ahova Mamous, Ezra Arbeli, *If the State Does Not Deal with the Infiltrators, I will*, Mynet (November 11, 2010), <http://www.mynet.co.il/articles/0,7340,L-3982376,00.html>.

²⁹ Ezra Arbeli, *How to Fight the Infiltration? Hang Red Flags*, Mynet (January 3, 2011), <http://www.mynet.co.il/articles/0,7340,L-4013075,00.html>.

³⁰ Ilan Lior, *The Foreigners Can Clean Bnei Brak, But Not Live in It*, Ha’arezt (November 24, 2010), <http://www.haaretz.co.il/news/education/1.1231508>.

³¹ Yoav Zitun, *Bnei Brak may 'expose' landlords who rent out flats to Africans*, Ynet News (October 11, 2010), <http://www.ynetnews.com/articles/0,7340,L-3982899,00.html>.

³² Yoav Zitun, *New in Bnei Brak: Hotline for Rattling Out Those Who Rent Apartments to Foreigners*, Ynet News (November 21, 2010), <http://www.ynet.co.il/articles/0,7340,L-3987707,00.html>.

³³ Ilan Lior, *Refugees in Bnei Brak: Inspectors and Evicting Us from Our Apartments*, Ha’arezt (November 30, 2010).

apartments and renting them to asylum seekers, claiming they were “illegal residents,” despite having the legal right to stay in Israel.³⁴

Or Akiva Municipality

A small community of asylum seekers lives in the town of Or Akiva, and many of its members are employed by the municipality. Several municipal officials in Or Akiva have voiced racist opinions toward asylum seekers. Simha Yosifov, the Mayor of Or Akiva, described asylum seekers as “infiltrators,” a “danger to society,”³⁵ and a demographic threat.³⁶

The municipality took concrete measures to drive out asylum seekers from the city. Officials in the municipality located Or Akiva residents who rented apartments or sheds to African asylum seekers. Those residents were summoned to a meeting with the Mayor and municipality officials where they were warned that asylum seekers pose a danger to children. As a result, some of them evicted the asylum seekers they had been renting to. The municipality also pledged to carry out inspections of sheds and storage facilities that were being rented by Or Akiva residents to ensure that they are not used to house asylum seekers. Since renting storage facilities as a dwelling is forbidden, the municipality planned to use this legal pretext to demolish the storage facilities and sheds that were being rented to asylum seekers.³⁷

Other than using the pretext of cracking down on illegal forms of dwelling, the municipality sent letters to Israelis who rented apartments to African asylum seekers, ordering them to evict “the Sudanese.” Following these letters, in mid-August 2011, twelve municipality inspectors paid visits to the homes of 40 Eritrean refugees, ordering them to leave the city immediately. The inspectors, who were armed, told the refugees that “blacks” should not live in Or Akiva.

Racial Discrimination against Asylum Seekers by Israeli Police

Several instances of racial discrimination by Israeli police against asylum seekers have been documented in recent years. Policemen have adopted a policy of confiscating the property of African refugees, particularly bicycles, if the refugees are unable to prove ownership of the property when they are stopped by police, even when the police have no knowledge of the bicycles being stolen property.³⁸ In one instance, a Nigerian worker had his cellular phone confiscated by policemen because he failed to present a receipt for the phone. Despite the fact that the phone was not reported as stolen, the police insisted they have a general policy of not

³⁴ Ilan Lior, *Bnei Brak takes fight against 'illegal' refugees to the courts*, Ha'aretz (January 4, 2011), <http://www.haaretz.com/print-edition/news/bnei-brak-takes-fight-against-illegal-refugees-to-the-courts-1.335052>.

³⁵ *Simha Yosifov in a Letter to Bibi Netanyahu: We Are at a Loss in Dealing with the Sudanese Refugees*, Migdalor Or Akiva (December 12, 2011), <http://israblog.nana10.co.il/blogread.asp?blog=706261&blogcode=12932929>.

³⁶ Yahav Dolev, *Simha Yosifov: The Sudanese Should Go Back to their Own Country*, Mynet (July 14, 2011), <http://www.mynet.co.il/articles/0,7340,L-4095220,00.html>.

³⁷ Liran Tetro, *Or Akiva: The Municipality is Acting to Drive Out the Sudanese and Eritreans from the City*, Migdalor Or Akiva (July 8, 2011), <http://israblog.nana10.co.il/blogread.asp?blog=706261&blogcode=12608861>.

³⁸ Ilan Lior, *Report: Tel Aviv Police Confiscate Bicycles from Refugees who can't Prove Ownership*, Ha'aretz (July 1, 2011), <http://www.haaretz.com/print-edition/news/report-tel-aviv-police-confiscate-bicycles-from-refugees-who-can-t-prove-ownership-1.370521>.

releasing property back without a receipt. After appeals by Hotline for Migrant Workers, the police suddenly reversed their purportedly general policy and released the phone back to its owner. No Israeli citizens have reported similar confiscations of property.

Police and Immigration Authorities Brutality against Asylum Seekers

The “Oz” unit of the Israeli Immigration Police operates under the Population, Immigration and Border Authority at the Ministry of Interior. The unit has routinely engaged in acts of brutality against asylum seekers and migrant workers since its establishment in 2009. This brutality is, at least in part, motivated by racism, as one of the inspectors in the unit stated in an interview that “foreigners... are defiling the country with drugs and diseases and take the jobs away from our unemployed... They spread filth... They can infect people with diseases. They commit robberies and thefts. They need to be removed from here.”³⁹ In a particular brutal case, the unit assaulted a family of African Americans living in Arad, even hitting a pregnant woman, while cursing at the family and saying, “Niggers, we don’t want you here.” Asylum seekers living in southern Tel Aviv reported that inspectors from the unit routinely harass, shout racist slurs, and physically assault Africans. One African living in Israel reported that while assaulting refugees, the inspectors at times yell, “Go away, you are not wanted here” and, “You are ruining this country.”⁴⁰ In another case of brutality, a prominent pastor in the Ghanaian community in Israel was dragged on the streets in handcuffs, kicked in the chest, and kept in a locked vehicle for hours until he was unable to breathe.⁴¹ Cruel treatment by the “Oz” unit is not uncommon, and has largely gone unaddressed by Israeli authorities.⁴²

Moreover, in another case of discriminatory police brutality, the Tel Aviv police have adopted the habit of forcibly shutting down restaurants and bars of asylum seekers in the southern part of Tel Aviv in the evening. Several reports indicate that Tel Aviv police officers arrive after 23:00 and shut down establishments by pepper-spraying the clientele, threatening the owners of the establishments, cursing at the asylum seekers, and even breaking chairs and tables.⁴³

³⁹ Liat Shlezinger, *The Hunting Season: A Week along the Oz Unit*, Maariv (August 8, 2009), <http://www.nrg.co.il/online/1/ART1/926/528.html>.

⁴⁰ Liat Shlezinger, *They Told Us: 'Niggers, You Are Not Wanted Here'*, Maariv (November 21, 2011), <http://www.nrg.co.il/online/1/ART2/179/234.html>.

⁴¹ Talila Neshet, *Pastor from Ghana: Oz Unit Inspectors Brutalized Me*, Ha'aretz (November 13, 2011), <http://www.haaretz.co.il/news/education/1.1471632>.

⁴² Yael Boronovsky, *Refugee Claims He Was Beaten By Inspectors: Where Can One Complain?*, Ynet News (September 23, 2010), <http://www.ynet.co.il/articles/0,7340,L-3958598,00.html>.

⁴³ Hagai Matar, *Refugees in Neve Shaanan: The Police Pepper-Sprayed Us*, Maariv (January 6, 2011), <http://www.nrg.co.il/online/54/ART2/197/715.html?hp=54&cat=870>; see also Yuval Goren, *The Police Presents: Pepper-Spray Procedure Against Refugees*, Maariv (July 14, 2011), <http://www.nrg.co.il/online/1/ART2/259/844.html>.

Violations of CERD: Article 4

The Offence of Incitement to Racism

Prohibition of Racist Publications, Incitement to Racism, and Racial Registration of Corporate Documents Bill

Although there is an existing ban on hate speech, there are serious problems with enforcement. Over the years, the law has been used sparingly and has rarely been used on Jewish religious leaders, a group over-proportionally involved in racist incitement. Additionally, the requirement that an offense of incitement to racism must be submitted with the approval of the Attorney General and needs to prove the *mens rea* of specific intent to incite, poses a significant obstacle in making the provisions of the law effective.

In 2011 a bill was formulated by IRAC staff and was presented to the Knesset by the two co-chairmen of the Lobby Against Racism and 16 other Knesset members. On December 2011, due to the objection of the Coalition, the Israeli Parliament rejected the bill in a preliminary hearing.

The purpose of this bill was to expand legal tools available to deal with incitement to racism. The bill allows for the adding of a tort that would allow an individual to claim damages for racial incitement, similar to the possibility to claim damages for discrimination. It expanded the definition of “racism” to include incitement on account of religious affiliation, a person’s status in Israel, ethnic origin, and country of origin to include Ethiopians, Russians, Sephardim, and other groups, which are not protected by the law today.

The bill also proposed changing the definition of the crime of incitement to a crime of racism. This shifts the *mens rea* from intent to incite to an awareness of incitement. Additionally, it eliminates a defense for comments inspired by scripture quote. Finally, due to the fact that much of the racial incitement in Israel is part of the activities of associations and other corporations, the bill proposes to establish a prohibition on racial registration in corporate documents, and provide the Registrar of Corporations the authority to prevent the registration of a corporation if its objectives or policies are manifestations of racism.

The rejection of the bill illustrates a slippery slope that characterizes the current Knesset. Rather work towards the eradication of racism, it has been leading the way to legitimize incitement of racism, racist activities, and endanger the safety of groups that are the object of racial incitement.

Incitement to Racial Discrimination by Individuals

Enforcement of Criminal Incitement Prohibition

As specified in the State’s report, several cases of racial incitement have reached Israeli courts. However, many important and serious incidents of incitement to racism have not been fully prosecuted by Israeli authorities. The State’s handling of racial incitement, especially when public figures are involved is characterized by inconsistency, hesitance, and even incompetence. Many cases have been handled in an inexpedient manner. This behavior is a signal to the public that racial incitement is acceptable. This policy encourages the commission of additional violations while providing de-facto immunity for the perpetrators. Although freedom of speech is

a fundamental value in Israel and elsewhere, in cases of racial incitement, especially those committed by public figures, the Attorney General's approach is inconsistent with the purpose of Article 4 of the Convention.

This policy is also inconsistent with the principle of equality before the law, since, as demonstrated in the State's report, criminal charges for racist incitement that have been brought in recent years are almost solely against laymen. Out of the thirty-three cases detailed in paragraph 173, Table 2 of the State's report⁴⁴ (indictment and verdict relating to offences of incitement to racism, incitement to violence, and offences motivated by hate. November 2004 – August 2009), in only one case was the defendant a public figure (Gershon Trastman – an Israeli poet writing in Russian). The absence of public figures from this list is not due to lack incitement by public figures. Public figures should be held accountable for their crimes, especially since they have greater influence over the general populace. Also, contrary to some of the first time offenders in Table 2, some public figures consistently use racist expressions. Thus, the State's policy is unreasonable and damaging. The following are several examples:

➤ *Encouraging Acts of Revenge*

Following the murderous terrorist attack on Mercaz Harav Yeshiva in Jerusalem in March 2008, a poster was disseminated encouraging acts of revenge against Arabs. The poster declared: "Each person must describe to himself what the enemy is planning to do us, and must act in the same currency. Do not pity them, for they will not pity you." The poster ended by stating that "the Jews may gather in their cities... to attack those who wish them ill, in these days and in this time." Several official State Rabbis, including city and neighborhood Rabbis, signed the poster.

➤ *Denial of Employment*

In October 2008, following the second incident in which a tractor driver committed a terror attack, a large number of Rabbis signed a poster titled "A Response to the Blood Spilled." In part, the poster stated, "the time has come to tell the truth. Providing a livelihood for our enemies leads to grave consequences... As a first, practical step, we urge people to stop employing the Arab enemy, at least within our immediate circles."

➤ *Denial of Housing*

Calls for denying Arabs the right to employment and housing have intensified since 2009. In the last two years, numerous calls have been made by Rabbis, particularly in the form of joint demands presented through the signing of a common document calling on Israeli Jews to refused to rent apartments to Arabs, migrant workers, refugees, or other foreigners (who are sometimes referred to generically as "Sudanese" or "Africans.") Many Arab students in North Israel have reported that they find it very difficult to rent apartments in Tzfat and other Jewish cities.⁴⁵ The

⁴⁴ Israel, Reports submitted by States parties under article 9 of the Convention, 14th – 16th Periodic Reports of States (2011).

⁴⁵ Nir Yahav, *Landlord in Tzfat Evicted Arab Students from His House*, Walla! (Oct. 30, 2010), (The article reports that four Arab students "signed a rental contract in the morning for an apartment in one of the southern neighborhoods of Tzfat. In the evening, they were asked to leave the premises immediately, after the landlord claimed that he was subjected to threats by a group of Haredi Jews. One of the evicted students recalled: 'We fled from the apartment after the landlord told us that the Haredi Jews were waiting nearby. Only after making sure that they were not there, we came to take our belongings and fled.'" See also, an interview on the radio program "All

impact of these publications is not confined to the subject of housing, but portrays the Arab population, or “strangers,” as a threat and a suspicious group that should be excluded from society, and removed from the streets. These encourage racial tension and hatred between different sections of the Israeli population on the basis of national or ethnic origin.

➤ *The “New Sanhedrin” Poster*

On August 17, 2009, Rabbis from the New Sanhedrin group signed a Halachic ruling imposing severe sanctions on Jews who sell land to Arabs. The ruling describes the “seizure” of land by Arabs and the “displacement” of Jews from their living areas. The ruling then continues: “Any Jew who lets or sells an apartment or land to a Gentile in a place inhabited by Jews... assists by his action in the persecution of his other compatriots. And he is guilty in retrospect of the grave offenses of delivery, persecution and treason.”

➤ *Rabbinical Conference in Pisgat Zeev, Jerusalem*

In August 2009, a rabbinical conference was held in the Pisgat Zeev neighborhood of Jerusalem. The title of the conference was “Neighbors Who Sell Their Homes in the Neighborhood to Gentiles – What Is the Position of the Halacha on Such Actions?” Keynote speakers at the conference included Rabbi Shmuel Eliyahu, the Rabbi of Tzfat and the head of Agudat Israel party, Rabbi Meir Porush, a former Member of Knesset, and MK Michael Ben Ari.

Permission to Kill Gentiles in the Book “The King’s Torah”⁴⁶

The ‘King’s Torah – First Part: Capital Law between Israel and the Nations’ was written by Rabbis Yitzhak Shapira and Yosef Elitzur and published by Od Yosef Yeshiva. The book is meant to incite to racial violence against Arabs and other minorities in Israel. It discusses the prohibition against killing Gentiles in peacetime and during wars. It states that a Gentile must not kill a Gentile, and if he does so, he should receive the death penalty. However, a Jew who kills a Gentile will not receive the death penalty. A Jew may kill a Gentile, even if the latter is not encouraging murder, if the Jew does so in order to save himself. Totally innocent persons, including babies, may be killed in order to save Jewish lives. Babies may also be killed if they are being raised to be “as wicked as their parents.” These statements are ostensibly based on Jewish religious law and tradition, and receive Halachic support in the form of the *haskamot* (rabbinical approbations). It is also signed by well-known Rabbis, among them: Yitzhak Ginsburg, head of Od Yosef Chai Yeshiva, Yaacov Yosef, head of a Yeshiva in Jerusalem, and Dov Lior, a Rabbi from the settlement of Kiryat Arba.

As the State mentions in paragraph 75 of its report, a petition was submitted in 2009 to the High Court of Justice for an injunction against the Attorney General which ordered him to justify why no indictments were filed against Rabbis Itzhak Shapira and Yossef Elitzur, the authors of the book, for incitement to racism, violence, and for calls for rebellion. In January 2010 the petition was dismissed because it was submitted prematurely before giving the State authorities an opportunity to investigate. At the same time the court held that the General Attorney should investigate the matter within a reasonable amount of time. Before and after the

Talk” with Razi Barkai on October 26, 2011, in which an Arab student described the difficulties she faced when she tried to rent an apartment in Tzfat.)

⁴⁶Israel, Reports submitted by States parties under article 9 of the Convention, 14th – 16th Periodic Reports of States (2011). (The State's report mentions the book “The King's Torah” in relation to Article 2 of the Convention, not Article 4).

petition was dismissed IRAC continued to demand that the General Attorney open an investigation against the authors and the Rabbis that gave their approval to the book. IRAC also demanded a disciplinary process against the Rabbis that have official State positions and gave their approval to the book.

According to reports in the Israeli press the authors of the book were arrested and released on bail in August 2008. Rabbi Ginzburg, one of the Rabbis who gave his consent, was summoned for questioning. According to the media reports Rabbis Yaakov Yosf, an official public neighborhood Rabbi, and Rabbi Dov Lior, an official city Rabbi, were summoned for questioning and refused to report. Six months later, arrest warrants were issued against them because of their refusal to report for questioning. Yet, they were not arrested until 4 months later after a complaint was filed by IRAC.

During a court hearing in July 2011 the police stated that the investigation concerning the book “The King’s Torah” had ended. IRAC approached the Attorney General and requested a decision on whether or not those who were investigated in relation to the book were going to be indicted. As of today, more than 28 months after the book was published, no indictment has been filed.

The Israeli government allowing Rabbis with official State titles to incite to racism with no legislative or judicial oversight is a clear violation of Article 4(c) of the Convention.

Racial Discrimination by Public Authorities

There is a lack of enforcement against Rabbis who are civil servants, fill public positions, and receive their salaries from public funds. Rabbis who are civil servants include two main categories: city Rabbis and neighborhood Rabbis (Rabbis employed by the local religious council). Surprisingly, Rabbis employed by the religious council, including neighborhood Rabbis, are not subject to any disciplinary code. Despite repeated complaints to the Minister of Justice, who is responsible for applying disciplinary codes to city Rabbis, no proceedings have ever been instigated against a Rabbi on account of racist statements, even in the case of repeat offenses.

Absence of Disciplinary Action against Rabbis

Disciplinary rules that apply to civil servants and employees of local authorities operate alongside criminal law. The purpose of disciplinary rules is to ensure the propriety of those employed by the civil service and to maintain the normative operation of public administration, discipline, and proper governmental arrangements.

In all the cases of civil servant Rabbis suspected of racial incitement, no separate disciplinary investigation was instigated, and no disciplinary complaints were submitted. Ministers of Justice who have been required to examine complaints against Rabbis on account of incitement claim that, in the absence of a criminal proceeding, there is also no justification for a disciplinary proceeding. The Ministry of Justice argues that the criminal proceeding takes priority in each instance. Once it has been decided not to instigate a criminal proceeding – as in the vast majority of cases – the disciplinary complaints are also closed, despite the fact that the two courses are distinct and require, at the very least, the application of different discretion in the framework of a separate administrative procedure.

While the State's restrained prosecutorial policy can occasionally be justified in light of the importance of the principle of freedom of speech, one should be concerned with the increase of racial incitement emanating from public officials, especially religious public figures. This, coupled with the State's apparent unwillingness to initiate investigations and criminal proceedings when dealing with its own, has become a dangerous state of affairs.

The lack of oversight on State appointed religious leaders who are public employees is an unjustified policy and contrary to Israel's obligations under the Convention. The creation of this atmosphere leads to the eruption of violence. This is the case with various "Price Tag" attacks in Israel and the West Bank by Jewish terrorists. Recent "Price Tag" attacks include the torching of a mosque in Arab village of Tuba Zangria in October 2011. The following are examples of racial incitement by public officials and the State's unwillingness to confront racism practiced by leading public figures:

Rabbi Shmuel Eliyahu

Rabbi Shmuel Eliyahu holds a State funded position as the Rabbi of Tzfat. Thus, he is a civil servant, serving the Jewish public in his city for their various religious needs and is subject to disciplinary measures. Eliyahu is a prominent Rabbi within the national-religious community and enjoys prominent standing in public opinion and government circles. He is a member of the High Rabbinical Council, an official State religious advisory body. Over the past nine years, Rabbi Eliyahu has been a prevalent voice in the media presenting racist ideology, mainly directed against the Arab community in Tzfat.

- During a convention in October 2006 in Acre, Rabbi Eliyahu openly called upon the audience not to rent or sell apartments to Arab residents. Following this statement, a complaint was filed against Eliyahu. He was investigated by the police under the guidance of the Ministry of Justice. Eliyahu denied the allegations against him. The case was closed due to lack of evidence.
- In March 2008, following a terrorist attack on Mercaz Harav Yeshiva, Rabbi Eliyahu published a newspaper article calling for the hanging of terrorist's ten sons.
- In July 2008, Rabbi Eliyahu, with other Rabbis, signed a leaflet entitled "Answer for the Spilled Blood" which describes the Arab citizens of Israel as a national problem. Five months later the Attorney General announced the opening of a criminal investigation against the Rabbi. The investigation has yet to be concluded.
- In October 2010, Rabbi Eliyahu held an "emergency conference" in Tzfat called "The Silent War – Fighting Assimilation in the Holy City of Tzfat." The conference was funded by the Tzfat Religious Council, and was devoted to discourage the integration of the Arab community in the city.
- In November 2010 Eliyahu published an article entitled "Judaizing the Galilee – This is Zionism." In the article, Rabbi Eliyahu urged Jewish Israelis not to sell or rent apartments to Arab residents. During the days preceding the publication of this article, Eliyahu reiterated this position in the media, and admitted that he personally telephones residents whom he knows are renting apartments to Arab residents and attempts to persuade them from doing so.

In February 2006 Rabbi Eliyahu was indicted for three cases of racist speech. Eliyahu signed a plea bargain whereby the State would close the investigation in exchange for Eliyahu's pledge

to publicize a clear retraction of his previous statement. Additionally, the prosecution, on behalf of the Attorney General, stated that future similar statements by Eliyahu would be sufficient grounds for renewal of the proceedings in this case. Despite the plea bargain, Eliyahu has made many racially-motivated statements. IRAC submitted a contempt of court request against the Attorney General for not fulfilling his commitment to reopen criminal proceedings against Eliyahu. The Attorney General announced the opening of an investigation against Rabbi Eliyahu on account of several racist statements made in 2010 a day before IRAC's hearing. In the hearing the court expressed concern that the Rabbi continued to make hate speech in spite of the plea bargain. The court did not order the commencement of proceedings, but rather, decided to leave the request open and order the State to update the court in three months regarding the results of the investigation.

The Role of the Attorney General

A unique characteristic of the offense of racial incitement is that the authority to indict rests individually with the Attorney General. This is unlike other criminal offenses that are investigated and indicted by various individuals in the State Prosecutor's Office and the police. Because the Attorney General exclusively handles claims of racial incitement, the time it takes to indict is inevitably longer. Moreover, the decision to open a criminal investigation by the police is also taken by the Attorney General, or with his agreement. The actual processing of offenses of incitement rests with a senior prosecutor in the State Prosecutor's Office. The concentration of authority creates a bottleneck effect and constitutes a burden on the system.

The practical outcome is that cases of racial incitement are processed by the law enforcement system over an extremely protracted period. This is particularly true regarding suspected racial incitement by Rabbis. According to data collected by IRAC between one and sixteen months may pass before a decision is taken to open a police investigation; and between one and several years from this decision to the decision to prosecute or to close the file. It seems improbable that pressure of work alone can explain these long periods of decision making in cases that are far factually complicated. It may be assumed that the fact that the suspects are Rabbis leads to caution and even to reticence when it comes to decision-making.

Duration of Processing in Cases of Rabbinical Incitement

Processing cases of rabbinical incitement takes an exceptionally long time. The average time from filing a complaint to the decision to open an investigation is six months (in complaints involving rabbinical incitement filed between 2002 and 2011). This includes cases wherein the decision of whether or not to instigate a police investigation was taken after eight, nine, fourteen, and in some cases, sixteen months.

In police investigations between 2002 and 2011 the average period of time between the start of the investigation and the decision to indict or close the investigation was 20 months. When cases were closed, the processing was, on average, more protracted than when an indictment was served. Five cases that were opened in 2008 remain open and investigations are incomplete. In the case of 'The King's Torah,' the investigation opened in August 2010 and is

still incomplete (15 months as of the date of publication). In comparison, Gabi Gazit, an Israeli broadcaster was indicted for a racist comment in a few days.⁴⁷

Enforcing the Law against Racial Incitement by Rabbis

Of 48 complaints about racial incitement by Rabbis known to IRAC during the period from 2002 through August 2011, the police instigated a criminal investigation in 18 cases (37.5%). The remainder of the complaints were closed without investigation (15 cases, 31.25%), or it is impossible to know what transpired in the case, since no reply was received to the complaint (15 cases, 31.25%).

Of those cases in which the police instigated an investigation concerning rabbinical incitement, four cases, or 22.22%, were closed after the investigation. In nine cases (50%) a decision has not been made (these are cases that were opened in 2008 and onward). To the best of our knowledge, in six of these cases the investigation is ongoing, while in the remaining three cases it is unclear what has transpired. It can be assumed that the cases have been closed, given that much time has transpired and that the authorities are unable to provide an outcome of the complaints.

In just five cases of rabbinical incitement, constituting 27.77% of the total cases investigated by the police, a person was indicted for a criminal offense.⁴⁸ In four of these cases, the indictment was deleted or withdrawn following an “apology” by the Rabbi involved.⁴⁹ In a single instance, the case was pursued to its conclusion and the Rabbis involved were convicted of racial incitement.⁵⁰

In conclusion, of 48 complaints relating to racial incitement filed between 2002 and August 2011, an indictment was served against just four Rabbis (relating to five cases), and of these indictments, just one led to conviction. In this single case, one of the Rabbis involved was penalized, while the other admitted the offense and was ruled to have committed the offense without imposition of a penalty due to his advanced age. As shown by Table 2 in paragraph 173 of the State’s report, it is clear that criminal law is enforced in a more meaningful manner when the cases do not involve Rabbis.

Grounds for the Closure in Cases of Rabbinical Incitement

Many cases of racial incitement are closed because the element of specific intent to incite is difficult for prosecutors to prove. In many cases the case is closed on grounds that have nothing to do with incitement. In 10 cases, or 20.8%, when a complaint was filed, the case was closed (either before or after a police investigation) due to the absence of intent to incite to racism. Prominent examples of this category include the publication of calls against joint Jewish-

⁴⁷The incident occurred on April 21, 2010, and as early as April 29, 2010 the representative of the attorney general announced that a police investigation would not be instigated. This emerges from the ruling in H CJ 4300/10, *Moshe Shoreq v Attorney General*, Nevo (2011).

⁴⁸(Although five separate cases are involved, three are combined in a single indictment served against Rabbi Shmuel Eliyahu. In other words, only three Rabbis have been indicted).

⁴⁹(Three charges against Rabbi Shmuel Eliahu in CC (Jer. Mag.) 1337/06; one charge against Rabbi Yitzhak Ginsburg on account of writing the publication *Root Treatment*, CC (Jer. Mag.) 3297/03.)

⁵⁰(The case involved Rabbis Yitzhak and David Batzri, who admitted publishing racial incitement on account of a sermon they made against Arabs. They made the sermon during a conference held in the Pat neighborhood of Jerusalem in an effort to prevent the establishment of a bilingual school for Jews and Arabs in the neighborhood.)

Arab events or fraternization between Jews and Arabs. Although the posters or statements were forcefully worded, and warned individuals against commercial or social contact with Arabs, the police closed the case because they claimed that the authors intended to prevent assimilation rather than incite to racism. The Attorney General took the position that the religious motivation of preventing assimilation nullified the motivation to create hostility and hatred between sections of the population (part of the legal definition of racism). This effectively grants immunity to individuals who use religion as a tool for incitement during early stages of investigations.

Cases of rabbinical incitement are closed in the preliminary stages, before the Attorney General has been convinced that an offense has been committed. However, the aspect of the religious motive behind the inciting publication is considered at an even earlier stage in the decision as to whether an offense is present. The small numbers of cases in which the grounds are detailed suggest that the fact that the person publishing the content is a Rabbi leads the enforcement agencies to determine that he had a “legitimate” religious motive, instead of the obvious motive of fomenting hostility against a different population group.

Racial Discrimination against Asylum Seekers by the Ministry of Interior

Due to Israel’s refusal to examine the asylum requests of Sudanese and Eritrean citizens, they are granted conditional release permits, which have to be renewed by Ministry of Interior. At first, in January 2008, the conditional release permits had to be renewed once every six months, but since then, the permits are extended by arbitrary durations between one to four months. The same asylum seeker can have his permit extended by one month in one instance and by four months in another. This policy is intended to keep the asylum seekers uncertain and afraid about their future.

The Ministry of Interior is responsible for extending the conditional release permits of asylum seekers once every few months. The offices of the Ministry of Interior that are reserved for migrants and asylum seekers offer very poor services compared to those offered to Israelis. In offices of the Ministry of Interior Tel Aviv and Jerusalem, asylum seekers are forced to wait outside for hours and sometimes days to receive their permits. In Jerusalem, asylum seekers have to wait outside for a clerk who comes out once a day to collect the requests of asylum seekers, and hands back 50 permits per day many hours later.⁵¹ In Tel Aviv, asylum seekers also have to wait for hours and sometimes days to receive the permits.⁵²

In the past, the Infiltrators Identification and Screening Unit of the Ministry of Interior was located in Lod. The policy of granting the permits for such short periods of time resulted in hundreds of asylum seekers waiting outside the offices each day. The asylum seekers were forced to stand outside for hours, and sometimes even days, without shelter of bathrooms, before they were let in and given their conditional release permit.⁵³

⁵¹ Moria Rodel, *The Ministry of Interior in Jerusalem: No Entry for Refugees*, Maariv (December 6, 2011), <http://www.nrg.co.il/online/54/ART2/313/481.html>.

⁵³ Dov Gil-Har, *Outside the Fence: Why Do Refugees Wait in Line for Days Outside the Ministry of Interior Office?*, Channel 10 (November 27, 2010), <http://news.nana10.co.il/Article/?ArticleID=761785>.

Racial Incitement against Asylum Seekers by Israeli Government Officials

Incitement against asylum seekers by Israeli government officials is rampant and takes place in the highest level of government. The government incitement against asylum seekers focuses on five main themes: presenting asylum seekers as “infiltrators” and illegal migrant workers; the false claim that asylum seekers are prone to criminality; the claim that asylum seekers are diseased; the claim that asylum seekers are terrorists; and the claim that asylum seekers pose a demographic threat.

Asylum Seekers as Illegal Migrant Workers

Israeli Government officials claim that asylum seekers are “infiltrators” who have entered Israel to work illegally. This claim is designed to dehumanize asylum seekers who have fled genocide, civil war, and forced open-ended army service. Rather than being labeled as asylum seekers, they are labeled as illegal migrant workers, who should therefore be deported. By using the term “infiltrators,” officials attempt to portray the African asylum seekers as saboteurs and threats to Israel’s safety.

As of January 2012, 46,000 asylum seekers are living in Israel. 25% of the asylum seekers are Sudanese and over 55% of them Eritreans.⁵⁴ The worldwide recognition rate of Sudanese citizens as refugees is 45% and the rate of recognition of Eritrean citizens as refugees is 87%.⁵⁵ Since Israel’s establishment, the State has recognized the refugee status of a mere 149 people.

In mid-June 2009, Yaakov Ganot, then Head of the Population, Immigration and Borders Authority, declared, “In our examinations, I would say that 99.9 percent of them [asylum seekers] are here for work. They’re not asylum seekers; they are not at any risk.”⁵⁶ This claim was made despite the fact that the Refugee Status Determination unit, which began operating in July 2009, had not assessed a single application made by an asylum seeker at the time. What began as a sinister undercurrent of incitement has recently reached epic proportions of a flood. The current Minister of the Interior Yishai (Shas), claimed, “We need to remember that refugees comprise only 0.01% of all the infiltrators.”⁵⁷ The Minister for Education, Gidon Sa’ar (Likud) announced, “We need to stop the flooding of this country with immigrants from Eritrea. They are not refugees, but rather labor immigrants.”⁵⁸ In a recent speech, Prime Minister Netanyahu stated, “These are not refugees. We checked how many of them are refugees – and we found that less than one in a thousand is defined as a refugee.”⁵⁹

These statements have been echoed by politicians in opposition parties as well. MK Tzipi Livni (Kadima), the head of the parliamentary opposition, stated, “The infiltrators who cross the

⁵⁴ Data on Foreigners in Israel, December 2011, Population, Immigration and Border Authority, Ministry of Interior (2011), <http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/dec2011.pdf>.

⁵⁵ *UNHCR Statistical Yearbook 2010*, Annex. United National High Commissioner for Refugees 95 (2010) <http://www.unhcr.org/4ef9c7269.html>.

⁵⁶ Nurit Wugraft, *Closing the Holes and the Loopholes*, Ha’aretz (June 21, 2009), <http://www.haaretz.com/print-edition/features/closing-the-holes-and-the-loopholes-1.278503>.

⁵⁷ *Eli Yishai: 'The infiltrators create an existential problem'*, Walla (November 22, 2010) <http://news.walla.co.il/?w=/9/1758470>.

⁵⁸ Hezki Ezra, *Sa'ar: 'Stop the flooding of the country with immigrants'*, Arutz 7 (November 27, 2011), <http://www.inn.co.il/News/News.aspx/229304>

⁵⁹ *Prime Minister's address in Attorneys conference in Eilat* (November 19, 2011), <http://www.pmo.gov.il/PMO/Communication/PMSpeaks/speechpraklitim291111.htm>

Egypt border are a different case [not refugees]. A small number of them are real refugees, but the majority is work infiltrators.”⁶⁰ MK Shlomo Mula (Kadima) said that Eritrean asylum seekers can be returned to their homeland (thus violating the international law principle of non-refoulement), and that the Eritrean regime ambassador told him that “the Israeli government never asked us to accept back the infiltrators.”⁶¹ Recently, the Tel Aviv Mayor, Ron Huldai, wrote a public letter to the Prime Minister arguing that, “The State of Israel can no longer afford to ignore the growing flow of infiltrators, as it is now clear to all that they come here as migrant workers and are not in any existential danger.”⁶²

Asylum Seekers as a Demographic Threat

Another falsity use to incite against asylum seekers is that they pose an existential threat to Israel’s Jewish character. These claims are supported by exaggerated estimates of the number of asylum seekers who are already in Israel and the number of asylum seekers who plan to enter Israel in the future. Eli Yishai, the Interior Minister, stated “I estimate that more than one million people have tried, are trying and will try to infiltrate from Third World countries. In order to maintain the Jewish majority, Israel must defend itself.”⁶³ Other Israeli officials have also inflated the number of asylum seekers waiting to enter Israel. MK Yaacov Katz (National Union party), previous chair of the Knesset Committee on Examination of Foreign Worker Problem, claimed that two million refugees are in Egypt, preparing to cross into Israel.⁶⁴ The Minister of Internal Security, Yizhak Aharonovich (Yisrael Beytenu), went so far as to say 2.5 million “infiltrators” are waiting for the opportunity to enter Israel.⁶⁵ Yishai has also claimed that the “infiltrators” are “an existential demographic danger because they might lead to the loss of the Jewish majority [in Israel].”⁶⁶

In April 2010, Knesset Member Yaakov Katz issued a letter to Tel Aviv residents, calling for the immediate declaration of a state of emergency due to the high number of Africans infiltrating the country through the Egyptian border. In the open letter, Katz wrote: “Through 100 years of hard work, the Nation of Israel built a Jewish State here. In ten years the infiltrators could ruin it all. We are killing our country.” Katz claimed that “the refugees arriving in Israel are not running away from murderous regimes, but are in fact sent to Israel by these regimes,

⁶⁰ Yair Altman, *Yishai: We'll fight for Jewish majority*, Ynet News (October 31, 2010),

<http://www.ynetnews.com/articles/0,7340,L-3977592,00.html>.

⁶¹ Yishai Karov, ‘*The Ministry of Foreign Affairs is Negligent in Handing Infiltrators*’, Arutz 7 (November 18, 2011), <http://www.inn.co.il/News/News.aspx/228903>.

⁶² Gilad Morag, *Huldai urges PM action on infiltrator issue*, Ynet News (December 4, 2011) <http://www.ynetnews.com/articles/0,7340,L-4156766,00.html>.

⁶³ Yair Altman, *Yishai: We'll fight for Jewish majority*, Ynet News (October 31, 2010), <http://www.ynetnews.com/articles/0,7340,L-3977592,00.html>.

⁶⁴ Open Letter by MK Katz, Chairman of the Knesset Committee on Examination of Foreign Worker Problem, to residents of Tel Aviv. (December 23, 2010) (It should be noted that in a public appearance merely five days after issuing this letter, MK Katz claimed that the number of "infiltrators" who "are on their way to Israel" is merely 1.5 million) See also, Roni Sofer, *MK Katz: Shoot infiltration facilitators*, Ynet News (December 28, 2010), <http://www.ynetnews.com/articles/0,7340,L-4005842,00.html>.

⁶⁵ Shlomo Puterkovsky, *Two and a Half Million Africans Are on Their Way to Israel*, Arutz 7 (July 18, 2010), <http://www.inn.co.il/News/News.aspx/206989>.

⁶⁶ *Eli Yishai: 'The Infiltrators are Creating an Existential Danger*, Walla (November 22, 2010), <http://news.walla.co.il/?w=9/1758470>.

claiming. ⁶⁷ In an interview later that year, MK Katz went as far as saying that the entry of “infiltrators” is “demographic terrorism.”⁶⁸

In an op-ed, Likud MK Miri Regev recently wrote that “only when we stop the tsunami of infiltrators and return back to their countries the migrant workers who are flooding us, can we guarantee that the state of Israel... will not become the world’s 49th Muslim country.”⁶⁹

Asylum Seekers as Criminals

Political leaders have also relied on racial stereotypes that asylum seekers are prone to criminality. Eilat Mayor, Meir Yizhak Halevy, stated that the asylum seekers “have brought here many problematic patterns of behavior, which lead to an intolerable rise in crime.”⁷⁰ Shlomo Maslawi, a member of the Tel Aviv Municipality Council, launched a campaign in April of 2010 under the motto: “infiltration = lawlessness = violence.” Maslawi claimed that “40% of crimes are a result of foreign workers” and added that the police are unable to handle this crime surge because “these are people without an identity, they are inhumane, there is no one to stop, no control.”⁷¹ Binyamin Babayof, another Tel Aviv Municipality Council member from the ultra-Orthodox party Shas, urged Tel Aviv residents in a letter to refuse to rent to asylum seekers because crime rates have gone up in areas where asylum seekers reside in Tel Aviv.⁷²

Asylum Seekers Presented as Diseased

In 2009, Interior Minister Yishai claimed that “hundreds of thousands of foreign workers with diseases [such as] hepatitis, tuberculosis, measles, AIDS, drug [addictions] will come here now, according to what the Minister of Internal Security stated in the last discussion.”⁷³ A day later, Yishai clarified that he had merely repeated claims made by the Minister of Internal Security that “the infiltrators from the Southern border, throughout their journey from their homelands to Israel, bring illnesses and diseases that there is a fear that they will spread in the country.”⁷⁴

Following an outbreak of tinea capitis in the Biyalik Rogozin School in Tel Aviv, which children of migrant workers and asylum seekers attend, Tel Aviv Council member Babayof stated:

We need to urgently remove all the illegals, the foreign workers and refugees from the country...they are not vaccinated. Minister Eli Yishai was right when he said that they bring diseases. The case of Biyalik Rogozin confirms that they

⁶⁷ Wake up, Tel Aviv Residents! Immediate State of Emergency!, MK Yaakov Katz. March 12, 2010.

⁶⁸ Reshet Bet radio interview with MK Yaakov Katz (December 26, 2010), *available at* <http://www.ketzaleh.co.il/BRPortal/br/P102.jsp?arc=115060>.

⁶⁹ Regev, Miri, *Refugees – In, Infiltrators – Out*, Maariv (December 14, 2011) <http://www.nrg.co.il/online/1/ART2/316/212.html>.

⁷⁰ *Eilat Mayor: The Infiltrators Are Taking Over the City*, Mynet (April 13, 2010) <http://www.mynet.co.il/articles/0,7340,L-3875154,00.html>.

⁷¹ *New Campaign: Return the Infiltrators to Africa*, Arutz 7 (April 26, 2010), <http://www.inn.co.il/News/News.aspx/203540>.

⁷² *Binyamin Babayof: 'Don't Rent Apartments to Migrant Workers and Asylum Seekers'*, Reshet Bet (June 24, 2010), <http://www.iba.org.il/bet/bet.aspx?type=1&entity=654552&topic=916>.

⁷³ *Minister of Interior Yishai: Hundreds of Thousands of Foreigners Will Bring AIDS and Drugs*, Ynet, (October 31, 2009) <http://www.ynet.co.il/articles/0,7340,L-3798115,00.html>.

⁷⁴ Shimon Cohen, *Aharonovich: I Did Not Warn Against Illnesses of Refugees*, Arutz 7 (November 1, 2009), <http://www.inn.co.il/News/News.aspx/195989>.

spread diseases and I demand that thorough checks be made in all educational establishments. The main concern today is about the spread of these infectious diseases in public parks, taxi cabs, neighborhood corner stores and other public places where they hang around. They might infect many others.⁷⁵

Following a government decision to establish a holding facility for thousands of asylum seekers in the Negev, which they might be able to leave, Shmulik Rifman, the head of the Ramat HaNegev Local Council, called to instead establish a closed prison for this purpose. Rifman stated that an open facility would allow the “migrant workers” to continue working in Israel and that “in the afternoon they will go to restaurants and walk around on our streets, in all sorts of places where they should not be.” He falsely claimed that asylum seekers receive free health care, and that “the cost of their medical treatment ranges from 100-110 million NIS. People with diseases like tuberculosis, malaria, and AIDS are walking among us.”⁷⁶

Asylum Seekers as Terrorists

Israeli officials also claim that asylum seekers coming to Israel from Africa are terrorists or potential terrorists. In a letter to the Defense Minister, the Mayor of Eilat stated that “no one can guarantee that in the future a terrorist network won’t infiltrate here and its results will be much direr.”⁷⁷ He added “Today we are talking about infiltrators who stay here illegally, and tomorrow they will be terrorists sent here by Islamic movements.”⁷⁸ In a conference held at the Knesset, Halevy discussed the entry of refugees into Israel, claiming “no one is promising me that this is not a terrorist scheme.” At the same conference, Knesset Member Nissim Zeev (Shas) stated that Muslims are threatening to conquer the world and added “that is the Islamic policy, and we must stop this epidemic with all force.”⁷⁹ MK Michael Ben Ari (National Union party) claimed that “there is a danger of entry of infiltrators from Sudan as it is the biggest al-Qaeda base in the Middle East... I will not let such bases be established in Israel.”⁸⁰

Racial Incitement against Asylum Seekers by Police

Incitement by Israeli police against asylum seekers also focuses on the false claim that they are prone to criminality. Despite official statistics of crimes rates showing that asylum seekers are more than twice less likely to commit a crime compared to the general population of Israel, Israeli police have been reifying and perpetuating the myths that there are many criminals

⁷⁵ Merav Shlomo-Melamed, *Babayof: The Minister Yishai Was Right, Foreign Workers Bring Diseases*, Mynet (March 10, 2011), <http://www.mynet.co.il/articles/0,7340,L-4040124,00.html>.

⁷⁶ Beni Toker, *Rifman: Don't Allow the Infiltrators to Work*, Arutz 7 (November 25, 2010), <http://www.inn.co.il/News/News.aspx/212020>.

⁷⁷ Beni Toker, *Eilat Mayor: Let the Minister of Defense Protect Our Safety*, Arutz 7 (May 19, 2011), <http://www.inn.co.il/News/News.aspx/220010>.

⁷⁸ Ahuva Mamos, *'Today Infiltrators Crossed the Border, Tomorrow Terrorists'*, Mynet, (May 26, 2011), <http://www.mynet.co.il/articles/0,7340,L-4074212,00.html>.

⁷⁹ Roni Sofer, *MK Katz: Shoot infiltration facilitators*, Ynet News (December 28, 2010), <http://www.ynetnews.com/articles/0,7340,L-4005842,00.html>.

⁸⁰ Hezky Ezra, *Ben Ari: I Won't Let Terror Bases to Be Established in Israel*, Arutz 7 (August 10, 2011), <http://www.inn.co.il/News/News.aspx/224261>.

among African asylum seekers.⁸¹ For example, in 2010 the police claimed that there is a sharp rise in the rate of crimes committed by African refugees, despite a drop in the already-low criminality rate within the community.⁸²

Inspector General Dudi Cohen, Israeli Police Commissioner in 2010, predicted that the growth of the African community in Israel would translate into greater rates of crimes being committed against Israelis (on top of the intra-communal crimes), and would result in the “development of a fertile breeding ground for exploitation, human trafficking, acts of violence, murder, extortion, as well as property crimes, and sexual and moral crimes.”⁸³ Cohen also stated that the “infiltration is a national problem. 10% of murders in the first half of the year occurred among infiltrators. There is a rise in violence among them.”⁸⁴ In fact, in 2010, according to statements and data distributed of the police, only 4.1% of murder cases were opened against asylum seekers.⁸⁵

According to an Eilat police report released in May 2010, Sudanese community members’ involvement in crime began in April 2008. The report states that, “There are instances of domestic violence, drunken violence, attacks on police officers, and recently drugs.” The report goes on to note that, “a high percentage of them are unemployed, do nothing, and drink alcohol. Their appearance is threatening and harms the public’s sense of security. In the mornings and evenings they convene in the industrial area and get drunk.” The report concludes that the Sudanese and Eritreans believe that they are protected, that State authorities will not deport them to their countries of origin, and there is a greater chance that they will get legal status in Israel. The report goes on to claim that, “due to these reasons, they encourage their friends and families in Egypt to reach Israel quickly.”⁸⁶

The police chief of the Eilat district, Commander Moshe Cohen, announced that due to the “worrisome” rise in criminality of refugees, who supposedly commit “grave and serious crimes,” he has ordered the establishment of a special unit to patrol areas in Eilat where asylum seekers reside.⁸⁷ The Eilat police department told media outlets that the number of new cases opened against asylum seekers in Eilat has risen by 300% in 2010 compared to 2009. This contradicts the official statistics released by the same department, which show that asylum

⁸¹ (In 2010, 703 cases were opened against asylum seekers out of a population of 34,335 people, a crime rate of 2.04%) See, *Criminality of Infiltrators and Asylum Seekers and against Infiltrators and Asylum Seekers*, Knesset Research Center (May 2011) available at www.knesset.gov.il/mmm/data/pdf/m02844.pdf. (On the other hand, 49.9 cases were opened for every 1,000 residents of Israel, a general crime rate of almost 5%.) See, *The Statistics Yearly of the Israeli Police*, Israeli Police (February 2011), available at <http://www.police.gov.il/mehozot/agafTichnon/Documents/pshia.pdf>.

⁸² *Criminality of Infiltrators and Asylum Seekers and against Infiltrators and Asylum Seekers*, supra note 47.

⁸³ Avi Ashkenazi, *Sharp Rise in the Number of Crimes Committed by Infiltrators*, Maariv (December 28, 2010), <http://www.nrg.co.il/online/1/ART2/194/242.html>.

⁸⁴ Ayala Hanan'el, *The Police Commissioner: Infiltrators are Involved in 10% of the Murders*, Walla (July 28, 2010), <http://news.walla.co.il/?w=/1/1715646>.

⁸⁵ (145 murder cases were opened in 2010, six of them against asylum seekers.) See, Avi Ashkenazi, *Sharp Rise in the Number of Crimes Committed by Infiltrators*, Maariv (December 28, 2010), <http://www.nrg.co.il/online/1/ART2/194/242.html>. See also, *The Statistics Yearly of the Israeli Police*, Israeli Police (February 2011), <http://www.police.gov.il/mehozot/agafTichnon/Documents/pshia.pdf>.

⁸⁶ Merav Batito and Zadok Yechezkei, *South Africa, Yedioth Ahronoth* (July 2, 2010).

⁸⁷ Shimon Ifargan, *A Special Force Will Handle Crimes of Refugees in Eilat*, Maariv (August 28, 2010), <http://www.nrg.co.il/online/1/ART2/150/440.html>

seekers in Eilat are ten times less likely to have a case opened against them compared to the general population of the city.⁸⁸

In a Knesset hearing in January 2011, Commander Yoram Ohayon, the chief of police for Southern Tel Aviv also repeated false claims that refugees are prone to criminality, stating that “there is a negative trend of an increase in crime... [T]his is without a doubt the number one problem facing the nation, a great strategic threat on the State of Israel.”⁸⁹

Racial Profiling in Airports

The Mossawa Center has been recently dealing with cases of international visitors, including American and European citizens, being racially profiled at Ben Gurion Airport and the Ministry of Interior based on Arabic sounding names and religion. Non-Jewish visitors, regardless of their citizenship, typically face lengthy interrogations and extensive luggage searches, and are regularly subjected to body and strip searches, have items including computers and electronic equipment confiscated, are kept in holding areas, and are escorted directly on to the plane. Additionally, foreign countries that allow Israel to carry out its own security checks at their airports, particularly for Israeli airlines, failed to supervise them and rather, prefer to ignore the discriminatory nature of the searches at their own airports.

Violations of CERD: Article 5

Segregated Education System for Children of Asylum Seekers and Migrant Children

Since 2010, Eritrean families have attempted to register their children in kindergartens and primary schools in Bnei Brak. Despite orders from the Ministry of Education, the municipality has continued to erect obstacles for families of asylum seekers, insisting that families need to provide certain documents (such as a lease contract, proof of payment of municipal taxes and birth certificates of the children), despite the prohibition of conditioning the education of children on provisions of any document.

In the 2011 academic year, following appeals by refugee rights NGOs and media scrutiny, the municipality opened a separate kindergarten for children of migrants and asylum seekers. The municipality claimed there were no open spaces in secular kindergartens in the city, and thus, a need to open a new kindergarten for non-Jewish children. In the kindergarten for foreign children, there is one general group, consisting of children ages 3-5, as opposed to kindergartens for Israeli children, which are divided to three age groups. The municipality does not merely separate the students based on their race but also does not provide the children with the equal support that is given to Israeli students. Only after considerable pressure by ASSAF (Aid Organization for Refugees and Asylum Seekers), were children of asylum seekers admitted into primary schools in Bnei Brak in the 2011-2012 academic year.

⁸⁸ (In August 2010, the police claimed that 40 cases were opened against refugees in Eilat in 2009 and 120 were opened against them in 2010. In fact, 76 cases were opened against refugees in Eilat in 2009 and 42 cases were opened against refugees in the first seven months of 2010. One out of 166 asylum seekers had a criminal case opened against them, as opposed to the general population of Eilat, among which one out of 16.3 people had a police case opened against them.) See, *Data on Criminality of Infiltrators and Asylum Seekers and against Infiltrators and Asylum Seekers*, Knesset Research Center (2010).

⁸⁹ Hezky Ezra, *In Southern Tel Aviv: 50,000 foreigners*, Arutz 7 (January 5, 2011) <http://www.inn.co.il/News/News.aspx/213722>.

Military and National Civil Service as a Tool for Discrimination against Palestinian Citizens of Israel

By law, all Israeli citizens are subject to perform military service or national civil service. However, Palestinian citizens of Israel, with the exception of the men from the Druze and Circassia communities⁹⁰, are exempt from compulsory military service because of historical and political reasons. Only a small percentage of Arab Palestinian citizens of Israel perform military service.⁹¹ Consequently, some benefits and privileges are awarded according to the performance of military service or national civil service, with the original aim to compensate those citizens that have contributed to the public in the areas of security or social needs. However, in recent years, the performance - or lack thereof - of military service has become a pretext for discrimination against Palestinian-Arab citizens of the State. The end result is society-wide discrimination, wherein discharged soldiers or those that performed national civil service are awarded a wide range of government services and economic benefits in very wide areas of social needs, such as housing, finance, education, and employment. Many of these policies violate the principle of equality because there is no connection between the benefit and the military or civil service: the benefit is not aimed at compensating for the “loss” of 3 years of one’s life for the benefit of the State, but rather it is a pure pretext to give benefits that will not be distributed to Arab or others that do not serve in the military or civil service. Below are outlined attempts by the State of Israel to use military service or national civil service as a justification for discrimination:

- It is important to note from the outset that military service grants access to financial benefits, amongst other advantages. In 2011-2012, the Israeli Ministry of Defense allocated 1,766,000,000 NIS to compensate soldiers who have completed military service.⁹²
- The Absorption of Discharged Soldiers Law 5754-1994 (the “Discharged Soldiers Law (1994)”), confers substantial social and economic privileges to discharged soldiers. According to its most recent amendment,⁹³ any registered university or college student who has completed his or her military service and is a resident of a designated “National Priority Area” such as the Naqab (Negev) in the south, the Galilee in the north, or the Jewish settlements in the West Bank, will be granted a “compensation package” including: full tuition for the first year of academic education; a year of free preparatory academic education, and additional benefits in areas like student housing.⁹⁴ There are several other

⁹⁰ Liat Yitzkhak, *The Druze in Israel* (1998) available at <http://www.e-mago.co.il/e-magazine/druze.html> (By agreement with the relevant communities, since 1957 Druze and Circassian men are required to perform service in the Israel Defence Forces (IDF)).

⁹¹ Page 21 of its report to the Committee, Israel indicates that there are currently there are approximately 900 soldiers of the Arab population serving in the Israel’s Defense Force (IDF), of which, 73 per cent are the Bedouins, 17 per cent are Muslim Arabs and 10 per cent are Christian-Arabs.

⁹² http://www.mof.gov.il/BudgetSite/StateBudget/Budget2011_2012/MinisteriesBudget/Safety/Lists/List/Attachment/s/1/misradHabitachon.pdf (in Hebrew)

⁹³ Absorption of Discharged Soldiers Law (1994) (Amendment No. 12) (2010).

⁹⁴ Adalah, *Widening Use of Military Service as a Condition for University and Employment Benefits Discriminates against Arab Citizens of Israel* (Sept. 19 2010) available at http://www.adalah.org/eng/pressreleases/pr.php?file=20_09_10_1

legislative initiatives pending in the Knesset, which confer benefits upon completion of military and national civil service.⁹⁵

- Military or national civil service is frequently linked with civil employment. There is often a preference to hire applicants for civil jobs who have performed military service, even where there is no connection between the applicant's military service experience and the skills and knowledge needed for the position. The Civil Service Law (Appointments) -2002, (Proposed Amendment – Affirmative Action) grants discharged soldiers priority in employment in the public sector, thereby allowing for discrimination against, and exclusion of the Arab minority, which already suffers from under-representation in the public service. Moreover, in the private sector, a significant number of Israeli employers, particularly in the tourism and computer industries, place recruitment advertisements including the criterion “after military service” even when the position is in not security-related.⁹⁶ While this criterion is illegal under Israeli law, it is still being used frequently, without any sanction.
- Since the establishment of the 18th Knesset in 2009, Yisrael Beiteinu, whose party chairman is Foreign Minister and Deputy Prime Minister Avigdor Lieberman, has raised numerous proposals that harm the rights of Arab minority through the criterion of military service, which sometimes has no bearing whatsoever on the proposed right or benefit. On August 24, 2009 Avigdor Lieberman put forth yet another discriminatory proposal that would in effect prevent Palestinian Arab citizens of Israel from pursuing a career in Israel's diplomatic service. In line with his “no citizenship without loyalty” campaign, Lieberman asserted that he plans to limit entry to the Foreign Ministry's cadet program to those who either served in the IDF or did national civil service.⁹⁷

In point 549 of Israel's report to the Committee, Israel claims that rights and benefits are provided to every IDF regardless of his/her religion and that special provision is made for veterans from minority populations. However, as the Committee recognized in 2007, the very fact that military service provides highly advantageous access to public services, such as education and housing, is not compatible with the Convention. This is because the majority of Palestinian citizens of Israel do not serve and thus are unable to access these special benefits regardless of their socio-economic situation. Privileging discharged soldiers harms the rights of the Palestinian citizens of Israel, including the right to basic equality in distribution of services, an adequate standard of living, employment, education, health, and development. Druze communities, who are required to serve in the military, face many of the same problems that other Arab communities in Israel face, including a lack of support for their municipalities from the government, an insufficient and ineffective educational system, house demolitions, and an extremely high rate of unemployment. Given the continued discrimination and lower status of the Palestinians citizens of Israel, including the Druze community, any attempt to make rights and benefits contingent upon military or national civil service is in violation of Articles 1,2,3,5 and 6 of the Convention.

⁹⁵ See The Rights of those who Performed Military or National Civil Service Bill – 2010.

⁹⁶ Shula Kopf, *Jerusalem Post Report, Jewish Jobs*, Jerusalem Post, (April 25 2011) available at <http://www.jpost.com/JerusalemReport/Israel/Article.aspx?id=217772>.

⁹⁷ The Mossawa Center, *One Year for Israel's New Government and the Arab Minority* (April 2010) available at <http://www.mossawa.org/files/files/File/Reports/2010/Netanyahu%20Final.pdf>.

The Naqab as a Case Study in Extreme Racial Discrimination

Land and Planning

Many groups in Israel suffer “compound” discrimination on the basis of their national identity as well as their membership in part of a subgroup. The Bedouins in the Naqab (Negev) desert are an example of a group that faces multiple levels of institutional and social racial discrimination. In spite of the government’s stated aim of “improving and modernizing” the lives of the Bedouins in the Naqab through a resettlement program, the community has the lowest socio-economic status of any group of Israeli citizens.⁹⁸ This section examines the plight of the Bedouins as a case study as an example of an extreme case of racial discrimination in Israel by looking at land issues, civil and political rights, education, access to healthcare, and access to water.

Land is a valuable economic asset in the State of Israel, and also one of the most obvious indicators and sources of inequality. Jewish and Palestinian citizens of Israel have unequal access to land resources, land rights, and the ability to use the resource of land to develop their communities. The most indigent citizens are the Bedouin community in the Naqab. The community is comprised of approximately 170,000 people, or 14% of the total population of the Naqab, projected to rise to 320,000 by 2020.⁹⁹ Almost half live in government-created townships, and the remaining live in dozens of unrecognized villages, as well as a few villages recently recognized by the government. The Bedouin community has jurisdiction over 2.5% of the land in the Naqab including recognized and unrecognized villages.¹⁰⁰ The vast majority of Arab Bedouin citizens of Israel have been forcibly ejected from their ancestral homes, some repeatedly.

There are seven government-created permanent Bedouin townships in the Naqab that were created in the 1960s and 1970s: Hura, Lakiya, Rahat, Segev Shalom, Tel Sheva, Ararab’Negev and Kseife, all of which rank in the nine poorest towns in Israel.¹⁰¹ Although the State of Israel has encouraged the Bedouin community to move to these townships since the 1970s, many are reluctant to renounce their ancestral land claims, a precondition for residency in the townships. The majority of those who do move are not legal property-owners. The State pressures the Bedouin residents to move to the townships by denying basic services to the unrecognized villages, demolishing homes, and rejecting claims to land ownership.

Currently, the Jewish National Fund (JNF) is in the process of planting forests on some of the land that Bedouin populations were forced to leave. The JNF, a quasi-governmental body whose charter excludes non-Jews from benefiting from its land or services, aims to acquire land “for the purpose of settling Jews.”¹⁰²

⁹⁸ Ismael Abu-Saad, *Bedouin Arabs in Israel Between the Hammer and Anvil Education as a Foundation for Survival and Development*, <http://www.iataskforce.org/sites/default/files/bedouins4.pdf>.

⁹⁹ ADALAH, INEQUALITY REPORT: THE PALESTINIAN ARAB MINORITY IN ISRAEL 27 (2011) (citing M. MUSTAFA & M. SUBHI, UNLICENSED: THE POLICY OF DEMOLISHING ARAB HOMES IN ISRAEL 48 (2005)), *available at* [http://www.adalah.org/upfiles/Christian%20Aid%20Report%20December%202010%20FINAL\(1\).pdf](http://www.adalah.org/upfiles/Christian%20Aid%20Report%20December%202010%20FINAL(1).pdf).

¹⁰⁰ Id.

¹⁰¹ Israel, Central Bureau of Statistics, Table 1: Local Councils and Municipalities, *available at* http://www.cbs.gov.il/www/publications/local_authorities06/pdf/t01.pdf

¹⁰² Walter, Lehn, *THE JEWISH NATIONAL FUND*, 30 (1988).

Bedouin residents in the overcrowded townships are allotted only small residential plots, and therefore are unable to carry out their traditional agricultural livelihood. Despite the overcapacity, only a fraction of the recent State budget was allotted for additional development in these towns, resulting in few jobs and high levels of crime, unemployment and poverty. The education system in these towns is the least-funded in Israel: classrooms are in disrepair and schools lack laboratories, playgrounds, and other equipment. In some areas, water supply is limited, regular electricity is not provided, and proper sewage systems and roads are lacking. Moreover, the towns were established on land that is still claimed by the original residents. Therefore, many Bedouin are reluctant to settle on land that originally belonged to other tribes. The result is large unsettled sections of the towns.¹⁰³

Unrecognized Villages

Between 75,000 and 90,000 Bedouin citizens in the Naqab live in around 36 unrecognized Arab villages throughout the Naqab, referred to by the State as “illegal clusters.”¹⁰⁴ The villages have no official status, and are excluded from State planning and government maps. They have no local councils and receive almost no basic services, including electricity, water, telephone lines, education, or health facilities. The residents of these villages are Israeli citizens, as are all Bedouin in the Naqab, yet they are consistently denied basic rights. Hundreds of homes and other structures are demolished each year, including over 400 in 2008 alone, which left 2,700 people homeless.¹⁰⁵ The villages are denied services such as electricity and running water¹⁰⁶, and the government does not pave roads leading to the villages or provide any public transportation in their vicinity. Infant mortality rates are at least four times that of the Jewish population in the Naqab, access to education is difficult given lack of adequate facilities and transportation, and the drop-out rates are the highest in the country. The Israeli government views the inhabitants of these villages as “trespassers on State land,”¹⁰⁷ although many have been living on the lands prior to the establishment of the State of Israel in 1948. More than 85,000 Bedouins citizens have faced multiple evictions from their homes in the unrecognized villages and all are at risk of further displacement.¹⁰⁸ As stone and concrete construction in the villages is considered illegal by the government, residents often erect tents and shacks made of wood and metal. State attempts to assert ownership claims on the land are vehemently disputed by local residents and international activists.

Bedouin Land Claims

Bedouin citizens have submitted over 3,200 legal claims for disputed land, covering 990,000 dunams. To date, only 18% of the claims made by 12% of the claimants have been settled.¹⁰⁹ Since 2004, the Israel Land Authority (ILA) has been filing counter land claims against those made by Bedouins citizens. However, since the Bedouin lack official ownership

¹⁰³*Id.* at 11-12.

¹⁰⁴ Adalah, *supra* note 105, at 5.

¹⁰⁵ Coon, *supra* note 111, at 36.

¹⁰⁶*Id.* at iii.

¹⁰⁷ Adalah, *supra* note 105, at 28. (citing Attorney General of Israel, Response to Adalah’s petition HCJ 2887/04, Salem Abu Medeghem, et al. v. The Israel Land Administration, et al).

¹⁰⁸ Coon, *supra* note 111, at 26.

¹⁰⁹*Id.* at 5.

deeds, the State prevailed in every court case, and thus the land was registered in the State's name.¹¹⁰

The Bedouin citizens of Israel have been placed in an impossible situation. They are unable to procure building permits, and the homes they have lived in their whole lives are considered illegal by the State. Their homes are continuously under the threat of demolition and incurring fines. Any construction in the unrecognized villages is not done to defy the law, but rather out of necessity. At the same time, the State continues to establish new rural Jewish settlements in the Naqab. More than one hundred Jewish settlements exist in Be'er Sheva district, with average populations of 300 residents.¹¹¹

There are around 60 individual Jewish farms in the Naqab, accounting for 80,000 dunams. Most were established unlawfully without permits, but they were all retroactively legalized by an amendment to the Negev Development Authority Law, passed by the Knesset in July of 2010. This law also gives the Development Authority the power to allocate land for individual settlements in the future.¹¹²

As of 2010, nearly 75% of the Jewish settlements (approximately 100 out of 136) in the Beer Sheva sub-district in the northern Naqab are agricultural. This stands in direct contrast to the Bedouin community's situation, where a plot of land in a township is suitable for a single house. Jewish residents of the Naqab may choose where they wish to live: on a farm, a *moshav* (cooperative settlement consisting of separate farms), or in a town.¹¹³

The Goldberg Commission and Praver Plan

In late 2007, the Israeli government created a commission to make recommendations to "solve the problem of the Bedouin in the Negev."¹¹⁴ Retired Supreme Court Justice Eliezer Goldberg presided over the commission, which consisted of 8 people - 6 Jews and 2 Arabs - none of whom were residents of the unrecognized villages. The commission recommended that the State recognize villages that have a "critical mass"¹¹⁵ of permanent residents and that do not interfere with other State plans. In practice this would be limited to the recognition of only a few of the unrecognized villages. The Commission also called for the establishment of several claims committees to deal with Bedouin ownership claims and provide financial compensation for expropriated land. In May 2009, the government established the Praver Committee to outline a plan to implement the Goldberg Commission's recommendations.¹¹⁶

¹¹⁰ Human Rights Watch, *Off the Map Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages*, Volume 20 No. 5 (E) 18 (2008), available at <http://www.hrw.org/sites/default/files/reports/iopt0308webwcover.pdf>

¹¹¹ Association for Civil Rights in Israel, *Principles for Arranging Recognition of Bedouin Villages in the Negev*, 1 (2011), available at

<http://www.acri.org.il/en/wp-content/uploads/2011/09/PraverPolicyBrief-FINAL-ENG.pdf>

¹¹² Adalah, the Legal Center for Arab Minority Rights in Israel, *New Discriminatory Laws and Bills in Israel 2* (2010), available at http://www.old-adalah.org/eng/Discriminatory_Laws.php

¹¹³ Negev Coexistence Forum for Civil Equality, *supra* note 108, at 20.

¹¹⁴ Association for Civil Rights in Israel, *supra* note 18, at 2.

¹¹⁵ Human Rights Watch, *Israel: Halt Demolitions of Bedouin Homes in the Negev*, (Aug. 10, 2010), available at <http://www.hrw.org/news/2010/08/01/israel-halt-demolitions-bedouin-homes-negev>

¹¹⁶ Negev Coexistence Forum for Civil Equality, *supra* note 108, at 21.

The Praver Report

The Praver Plan is intended to put to an end, within five years, to “all of the activity surrounding the issue of the lands and to most of the efforts involved in the planning of settlement solutions, and even to a significant part of their implementation.”¹¹⁷ The proposals and tone of the report reject government decision no. 4411, which reads: “The government regards the outline proposed by the Goldberg Committee as a basis for regulating Bedouin settlement in the Negev.”¹¹⁸ While the Goldberg Committee’s solutions were arguably well intentioned, but ultimately inadequate, the regressive nature of the Praver Report represents a clear policy of continued marginalization for some of the most vulnerable citizens in Israel. There are a number of specific problems with the Praver plan:

- No Bedouin residents were consulting in the planning process
- The plan is vague and complex, and does not include maps, names of villages, or actual amounts or locations of land.
- The enacted plan would result in the demolition of most of the unrecognized villages and the expulsion of 40,000 citizens.
- The plan only applies to approximately 40% of the Bedouin population in the Naqab.
- The Praver Committee adopted the Goldberg Committee’s criteria for the establishment of Arab Bedouin towns (continuity, population density, size, and economic capacity), but this criteria do not apply to Jewish towns in the Naqab.
- The plan makes no effort to address historical land claims, does not grant land outside the *siyag*, and does not offer land for agriculture, which results in forced urbanization of these citizens.
- The Committee grants sweeping, unprecedented power to the Prime Minister to arbitrarily declare lands off-limits for residential development.
- The plan does not take population growth into account and suggests restrictive planning.
- The report makes the unreasonable stipulation that everyone in the village must rescind their claims to land in order for compensation to be granted. According to the plan, the amount of compensation offered will be reduced over time. After a five-year period, land which has not been the subject of the claims process, or which is the subject of an unresolved claims process, will be registered as belonging to the State.

The State knows that it is dealing with a small community with very limited resources. The Bedouin population currently occupies less than 3% of the land of the Naqab, though they make up 30% of the population. The unrecognized villages are less than 2% of the land. As a clear example of the discriminatory nature of the report, it simultaneously legalizes single-family Jewish settlements while leaving unclear the minimum size that a Bedouin community must attain in order to gain recognition.

¹¹⁷Government Decision, Confirming the Recommendations for Regulation of the Bedouin Settlement in the Negev, Government Decision 1, 30 §3.1 (11 September 2011) *available at* <http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>.

¹¹⁸ Dr. Thabet Abu Ras, *The Arab Bedouin in the Unrecognized Villages in the Naqab (Negev): Between the Hammer of Praver and the Anvil of Goldberg*, Adalah Newsletter, Vol. 81 (April 2011) *available at* http://www.adalah.org/upfiles/2011/Thabet_English_2.pdf.

The Praver plan reverses many of the significant admissions of the Goldberg Commission. Goldberg stated that the Bedouin residents are not “squatters” but rather citizens entitled to equal rights, and that the unrecognized villages should be recognized “to the extent possible.” Instead of recognizing the Bedouin community’s historic connection to the land and legalizing existing unrecognized villages, it asserts that the government should “establish new communities.”¹¹⁹ If the Praver plan’s recommendations come into effect, the Bedouin community will be forced to face the imminent prospect mass displacement.

Civil and Political Rights

Many Arab communities in Israel lack genuine and effective participation in local governance. Out of the forty-seven regional councils that operate in Israel, there are only three Arab regional councils.¹²⁰ The Jewish Israel regional councils control vast areas and land, land resources, and have the power to develop the land for the needs of the population.

In the Naqab, civil and political rights are often overlooked and denied to Bedouin communities. In 2003, the Abu Basma Regional Council was established by the Sharon government after a struggled for recognition by Bedouin communities. The government's goal was to encourage inhabitants of other unrecognized villages to move into its jurisdiction. Ten villages, with a total population of 30,000 people, live within the jurisdiction of the Abu Basma. The Council also provides education, social welfare and environmental services to approximately 40,000 additional residents who live in unrecognized villages. Unlike the Jewish regional councils, the Abu Basma Regional Council has no territorial continuity. The Jewish regional councils generally extend their jurisdiction over thousands of acres that may contain industrial areas that yield property-tax income. However, the Abu Basma Regional Council's area of jurisdiction is restricted to each village's territory only. So, while the 10 other regional councils in Israel's south, which is home to 45,000 Jewish Israelis, has 1.2 million hectares, Abu Basma extends only 3,400 hectares.¹²¹ This makes it the most densely populated regional council in the State. The result is that there is a shortage of sources of income for the Council. Due to the fact that income from property tax is extremely low in these areas, as well as the extreme density of the areas, the villages endure extreme poverty, economic hardships, and underdevelopment.

Under the law that established the regional council, the Ministry of Interior was allowed to appoint a panel of officials to oversee local services for four years while the Bedouin community prepared to run the Council themselves. Soon after, under extraordinary powers, the Ministry of Interior sought for multiple two-year extensions. In 2009, when the Bedouin community was expected to start electing and replacing the government appointed council members, the Knesset passed the Regional Councils' Law (Date for General Elections) 2009.¹²² The law allows the Ministry of Interior to indefinitely postpone the first elections in the Abu Basma Regional Council. After a case brought by Adalah and ACRI, the Supreme Court of Israel

¹¹⁹ *Id.* at 6.

¹²⁰ Adalah, *NGO Report to the UN Committee on Economic, Social and Cultural Rights*, (Oct. 19, 2011) available at http://adalah.org/upfiles/Adalah's%20responses%20to%20UN%20CESCR%20List%20of%20Issues%20for%20Israel%2018_10_11%20FINAL.pdf

¹²¹ Jonathon Cook, *Bedouins in Israel Denied Elections*, THE NATIONAL (Dec. 7, 2009) available at <http://www.jkcook.net/Articles3/0439.htm>

¹²² Adalah, *Israeli Supreme Court: Local Elections must be Held in Abu Basma Regional Council in the Naqab* (Feb. 22, 2011) available at http://www.adalah.org/eng/pressreleases/pr.php?file=22_02_11.

ordered that elections for the Abu Basma Regional Council should be held no later than December 4, 2012, however, to date, there have been no preparations made for a transfer of authority including registration of voters.¹²³ The government's attempts to block the rights of the Bedouin community in Naqab from voting is in direct violation of Article 5(c) of the Convention, which affords citizens political rights, in particular the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service.

Right to Education

Institutionally, the Israeli State educational system is divided into a Jewish system, which includes secular schools and religious schools, and an Arab system with secular schools and religious schools.¹²⁴ Palestinian Arab school children in Israel make up approximately 25% of the country's school students, at around 480,000 pupils.¹²⁵ Although the system may be advanced as one of educational pluralism, in actuality, each system had different students, teachers, and educational contents. In the Israeli educational hierarchy, middle class neighborhoods or settlements. The Arab system is at the bottom, with schools in the Naqab for Bedouin students ranking the lowest. This consequentially limits students' future socioeconomic opportunities and maintains the inequalities already in place. State funding to Arab schools in Israel falls far behind that provided to Jewish schools. Statistics published in 2004 reveal that for the academic year 2000-2001, public investment in Arab schools equaled an average of NIS 534 per Arab student, compared to NIS 1,779 per Jewish student, or three times more.¹²⁶ This underfunding is reflected in many areas, including large class sizes in Arab schools, as well as poor infrastructure and facilities.¹²⁷

While State schools that are established for religious Jewish students maintain autonomous control over their curricula, curricula at Arab State schools are entirely determined by the State. The overall aims of the education system require Arab students to learn about mostly Ashkenazi Jewish values, culture, and Hebrew. While the stated goals are to integrate Arab students into the mainstream Israeli society, the lack of budget allocations and strict control over the schools which prevents growth and free thinking, creates schools that blur their identities and sympathize with Zionist national narrative, while not proving the children with the skills to succeed in modern society.

Current status of Education for Bedouin Arab students

A critical look at the current education statistics with regards to Arab students in Israel shows that the authorities have failed to satisfy pressing needs. There are few elementary schools in the unrecognized Arab Bedouin villages in the Naqab.¹²⁸ Despite a settlement reached by the

¹²³ Adalah, *supra* note 105, at 9.

¹²⁴ Abu-Saad, *supra* note 104, at 109.

¹²⁵ Central Bureau of Statistics, Statistical Abstract of Israel 2008, No. 59.

¹²⁶ Central Bureau of Statistics, New Survey Investment in Education 2000/1, 3 August 2004.

¹²⁷ Adalah, *supra* note 105, at 5.

¹²⁸ Adalah, *supra* note 105, at 5.

State to establish the first high school in the unrecognized village of Abu Tulul by September 1, 2009, no school has yet been opened.¹²⁹

Education has become a State tool to use to encourage the urbanization of the Bedouin community in the Naqab. There is a discernable distinction made between schools described as temporary and those designated as permanent. Evidence of this is the superior physical conditions of schools in permanent localities. Most of these schools are situated in modern buildings that have running water and electricity.¹³⁰ Any school that is located in an unplanned or unrecognized settlement is classified as temporary. These schools are especially poorly equipped, have low budgets, inadequate facilities, poor buildings and furnishing, and a lack of a teaching materials.¹³¹ The schools often suffer from a lack of facilities, including libraries, maps, audio/visual, and laboratory and sports equipment. The schools are often not supplied with running water and electricity, although some are built next to water pipes or electricity lines.¹³² The disarray of Bedouin schools in the Naqab is part of an official government policy to induce the Bedouin community to settle in planned settlements. Although the government is bound by domestic law and Article 5(d)(v) of the CERD to provide equal education to all citizens, it is using the educational system to pursue its goal of concentrating the Bedouin communities from their original villages into designated settlements.

Right to Healthcare

Health care is a serious problem for Palestinian citizens of Israel, and especially for the Bedouin community in the Naqab. Palestinian citizens of Israel can expect to live lives that are four years shorter than their Jewish counterparts. They also face higher mortality rates, particularly after the age of sixty. According to official data, in 2008, infant mortality rates among Jewish Israelis were at 2.9 per 1,000 live births. While infant mortality rates are falling as a whole over time, in the same year the average infant mortality rate among Palestinian citizens of Israel was more than double of Jewish Israelis, at 6.5 per 1000 live births.¹³³ For Bedouin communities in the Naqab, the rate is higher, at 15.0 per 1,000 live births in 2005.¹³⁴ The population of Bedouin citizens in the Naqab has suffered as a result of the policy of the Israeli government to deny recognition to their community. This policy is especially evident in the health conditions of Bedouin Arabs in the Naqab.

The Israeli government passed the National Health Insurance Law in 1994. It introduced principles of equality in terms of access to and availability of services, and created a situation where all the residents of Israel enjoyed health insurance. Despite this law, Bedouin residents of unrecognized villages in the Naqab do not get adequate health care due to the absence of basic infrastructure and services such as: connection to electricity, water and sewage grids, waste disposal, and proper access to roads. In addition, there is a shortage in medical services. The combination of these factors impedes the rights of Bedouin residents in the Naqab to the equal

¹²⁹*Id.*

¹³⁰ Salim Abu-Rubiyya & Fawzan al-Athauna, et al., *Survey of Bedouin Schools in the Negev* (March 1996), available at <http://www.adva.org/uploaded/SURVEY%20OF%20BEDOUBIN%20SCHOOLS%20IN%20THE%20NEGEV.pdf>.

¹³¹ Ismael Abu-Saad, *Bedouin Arab Education in the Negev*, <http://www.snunit.k12.il/beduin/arti/2104e.html>.

¹³²*Id.*

¹³³ Central Bureau of Statistics, Israel in Figures 2009, 11 (2009).

¹³⁴ Israel's Third Periodic Report to the UN Human Rights Committee, CCPR/C/ISR/3 §571 (Nov. 21 2008).

health care established by law. Services to the Bedouin citizens are provided at “minority clinics” in cities such as Yeruham, Dimona, and Arad

Prior to the National Health Insurance Law, there were no clinics in the unrecognized villages. Residents who could afford health insurance (approximately 60%) were forced to travel to clinics in Bedouin and Jewish communities in their immediate or more distant vicinity. Prior to the passing of the law in 1994, the clinics of Clalit HMO in the kibbutzim, moshavim, and community villages close to the Bedouin villages did not accept patients from the unrecognized villages.¹³⁵ Services were provided at “minority clinics” in cities such as Yeruham, Dimona, and Arad. This situation continues presently. After the enactment of the law, the vast majority of the uninsured population registered with Clalit HMO. Although clinics were opened in the unrecognized villages, they were done only after petitions were submitted to the Supreme Court.¹³⁶ Most of the clinics operate in temporary trailers near schools. Though they are connected to the national water grid, generators provide electricity, which makes it difficult to keep medications that need refrigeration on site.

There is a sizeable discrepancy between the health care offered to Jewish and Bedouin communities in the Naqab. Currently, thirty-four villages do not have any medical services. These include Al-Fur’a, which has a population of 3885; Al-Za’arura, which has a population of 2894; and Tel Al-Maleh, which has a population of 1250.¹³⁷ On the other hand, Jewish communities in the Naqab with fewer residents have a primary clinic, for example: Kibbutz Sde Boker, which has a population of 360; Sde Boker College, which has a population of 650; and Kibbutz Revivim, which has a population of 900.¹³⁸ Lehavim, which had a population of 5569 in 2006, has three clinics staffed by a family physician and pediatrician, as well as regular visits by specialists.¹³⁹ Lehavim also has a pharmacy, whereas there is not a single pharmacy in all the unrecognized villages. By contrast to Lehavim, Wadi Al-Na’am, has a population of over 6000, and a single clinic with a family physician and a nurse.¹⁴⁰

There is inconsistency in the numbers of physicians and specialists in Bedouin communities and Jewish communities in the Naqab. In the unrecognized villages, the physician to population ratio is 1:3117.¹⁴¹ In Jewish communities, the ratio is 1:892. The average number of weekly reception hours by physicians per 1000 residents in the clinics in the villages is also lower than in Jewish communities: 13 reception hours a week per 1000 residents in the Bedouin villages, compared to 21 hours in the Jewish communities.¹⁴² The shortage of physicians, nurses, and hours of operation puts a heavy burden on the staff in the clinics. Physicians are forced to devote less time to patients. Waiting times are unreasonably long. The obvious differences in the rights of Bedouin communities to their Jewish counterparts in the Naqab are an obvious violation of Article 5(d)(iv), the right to public health, medical care, social security, and social services.

¹³⁵ Physicians for Human Rights, *The Bare Minimum Health Services in the Unrecognized Villages in the Negev* 3 (April 2009) available at [http://www.phr.org.il/uploaded/PHR%20-%20Bare%20Minimum%20%20Health%20Services%20in%20the%20Unrecognized%20Villages%20\(3\).pdf](http://www.phr.org.il/uploaded/PHR%20-%20Bare%20Minimum%20%20Health%20Services%20in%20the%20Unrecognized%20Villages%20(3).pdf).

¹³⁶ *Id.* at 4.

¹³⁷ *Id.* at 6.

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

Rights to Water

Unrecognized villages are not connected to the national water grid, although water is a basic right in Israel and all other Israeli citizens have running water in their homes.¹⁴³ Bedouin residents in unrecognized villages are forced to obtain their drinking water from access points located several kilometers from their villages. They do this through an improvised plastic hose system or by transporting the water in unhygienic metal containers by vehicle or donkey. In many instances, due to the heavy use of the source, the water is intermittent or frequently stops. Moreover, inhabitants are also exposed to the health risks due to drinking poor quality water. Paragraph 617 of the State's report to the Committee acknowledges its duty to provide unrecognized villages with water, stating, "While the Government does not question its duty to supply its inhabitants with services such as water, it is practically impossible to supply such services to sporadic places which disregard the national construction and planning programs." Though the State recognizes its responsibilities to the Bedouin community, it uses the next statement to disregard this responsibility with a transparent excuse by claiming that many of the unrecognized villages have existed before the creation of the State, and thus should not be considered "sporadic places." Conversely, although 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.

In a letter dated October 19, 2004 regarding the request of residents from the unrecognized village of Um al-Hiran to obtain water access to their village, the Bedouin Authority acknowledged the current arrangements for obtaining drinking water were inadequate. It went on to state that the dwellings in Um al-Hiran were illegal, and that access to drinking water and other utilities would be made available only if the villages relocated to the recognized town of Hura.¹⁴⁴ It is obvious that the Bedouin Authority and the State are using the right for water as a tool to put pressure on the residents of the unrecognized villages to leave their lands and move to the State's planned towns. This behavior by the State is a direct violation of the Convention's Article 5(d)(iv), the right to public health, medical care, social security, and social services.

List of Recommendations (Article 2 and Article 4)

1. The State of Israel should adopt an equal and effective enforcement policy to deal with cases of criminal racial incitement. The policy should enforce the criminal offence even-handedly on all factions of society and on all people regardless of their standing, including religious leaders and public officials.
2. The State should formulate a coherent policy regarding disciplinary action in cases of racial incitement and racism in general practiced by public officials. The policy should specifically address disciplinary measures against religious leaders holding public religious offices. A disciplinary code should be adopted for rabbis who are employed by the religious councils, such as neighborhood rabbis.
3. Criminal enforcement of incitement to racism should be intensified, including the definition of fixed and mandatory timeframes for processing cases of incitement.

¹⁴³ The Water Law 1959, section 3 (in Hebrew)
http://www.snunit.k12.il/www_teva/law/israel/h2.html.

4. A special team should be established to investigate and process cases of incitement in order to accelerate the response to complaints.
5. The Anti-Infiltration Law, which creates a discriminatory legal system for asylum seekers by sending them to years in detention without due process, should be abrogated.
6. Legislative amendment – the definition of racism should be extended to include incitement against other groups of the Israeli society such as Ethiopian, migrant workers, and refugees.
7. Legislative amendment – the definition of incitement to racism should be amended in order to require a regular psychological foundation of awareness of the action. The exemption from criminal liability on account of “quotes from religious writings” should be abolished, and this point should instead be defined as a defense claim requiring proof.
8. Legislative amendment – civil grounds for claim on account of racial incitement should be established in order to permit civil enforcement following racial incitement, given the paucity of criminal proceedings.
9. It is recommended that the State abolish the provision to the Citizenship Law, denying Arab citizens the right to family unification with their spouses from the territories occupied by Israel since 1967.
10. The State should collect data systematically on the number of cases of attacks of individuals based on religion/nationality/ethnic origin and the number of cases of racial or religious-based incitement.
11. It is recommended that the State initiate educational activities in the spirit of CERD obligations, among its law enforcement agencies, including religious entities.
12. Israeli government officials and police who incite hatred against asylum seekers should be held accountable.
13. People responsible for carrying out hate crimes against asylum seekers, should be persecuted.
14. All asylum seekers who reach Israel should enjoy access to a fair procedure for examining their asylum request, regardless of their country of origin. All persons who are determined to be eligible for refugee status must be granted this status in accordance with the UN Refugees Convention.
15. The Anti-Infiltration Law, which creates a discriminatory legal system for asylum seekers by sending them to years in detention without due process, should be abrogated.
16. The Israeli government must reverse its planned policy of fining employers of asylum seekers once the holding facility for asylum seekers is constructed. If the policy is enforced, is also bound to create a humanitarian crisis and a rise in criminality among asylum seekers, since it prohibits the employment of asylum seekers while creating a holding facility with only 11,000 beds, not enough to subsist the entire population of asylum seekers currently living in Israel.

List of Recommendations (Article 5)

1. To refrain from promoting legislation that requires military or national civil service as the criterion for receiving socio-economic benefits, thereby increasing the socio-economic gap between Jewish and Arab Palestinian citizens of Israel.
2. To act to ensure that socio-economic benefits are granted on the basis of an individual’s socio-economic status and not the completion of military/national civil service.

3. The government of Israel should recognize the Bedouin community's historical claims to land and cease to treat them as illegal squatters.
4. The Israeli government should recognize the Regional Council on Unrecognized Villages and negotiate directly with them about the policy and practical solutions to the land claims in the Negev and the status of the unrecognized villages.
5. Bedouin communities who have been evacuated and moved should be offered locations on or near their historical homelands. Additionally, they should be offered full compensation and funding to build houses in the same way that the Jewish settlers in Gaza received compensation when they were evacuated from their settlements.
6. The Israeli government should use the same planning instruments and criteria to plan Bedouin villages as the instruments and criteria it uses to plan Jewish family farms, kibbutzim, and cities.
7. Recognized and unrecognized Bedouin villages should be provided with the same services given to other Israeli citizens, including: running water, electricity, and transportation.
8. Women's education and employment should be considered a priority for Bedouin communities by the Israeli government. It should take active measure to ensure the education the Bedouin community by building schools in the townships and unrecognized villages. The schools should have the same facilities and educational tools offered to Jewish schools.
9. The government should introduce health intervention programs to reduce infant mortality rates for the Bedouin community as was done with the Ethiopian and other African communities.