

**NGO Report to the UN Human Right Committee
in Advance of its
List of Issues for the State of Israel**

Violations of the ICCPR committed by the State of Israel
against members of the Palestinian minority in Israel and
Palestinians in the Occupied Palestinian Territory

Submitted by

Adalah – The Legal Center for Arab Minority Rights in Israel

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Adalah – The Legal Center for Arab Minority Rights in Israel is an independent human rights organization and legal center, founded in November 1996. Its mission is to promote human rights in Israel in general and the rights of the Palestinian minority, citizens of Israel, in particular (around 1.5 million people, or 20% of the population). This work also includes promoting and defending the human rights of all individuals subject to the jurisdiction of the State of Israel, including Palestinian residents of the OPT. Adalah is the first Palestinian Arab-run legal center in Israel, and the sole Palestinian organization that works before Israeli courts to protect the human rights of Palestinians in Israel and in the OPT.

This NGO report sets forth for the Committee’s consideration violations of the ICCPR committed by the State of Israel against members of the Palestinian minority in Israel and Palestinians in the Occupied Palestinian Territory (OPT) in 10 main areas. It comprises the following sections:

1. New discriminatory laws and Jewish Nation State Bill further imperil the principle of equality and non-discrimination in Israel;
2. The underrepresentation of Palestinian citizens of the state in the Israeli civil service;
3. The new wave of “Annexation laws” and policies designed to seize Palestinian private land in the West Bank including East Jerusalem;
4. Israel’s Anti-Terror Law – 2016, arbitrary, sweeping and discriminatory aspects;
5. The excessive use of force by the Israeli security forces, including extra-judicial executions, and the lack of accountability for them;
6. Israel’s policy of holding the dead bodies of Palestinians killed by Israeli police and other military/security forces;
7. The ongoing ban on unification for Palestinian families;
8. Threats to freedom of expression and freedom of association: New legislation and shrinking civil society space; and violations of the rights to hold opinions and to freedom of expression of Palestinian citizens of Israel.
9. New legislation and policies aimed at reducing the political participation of Palestinian Arab citizens in Israel;
10. The discriminatory revocation of Palestinians’ citizenship and residency status.

ANNEX: Record of letters and cases submitted by Adalah and Al Mezan to the Israeli authorities regarding the March-April 2018 Gaza protest demonstrations, covering:

- The use of lethal and other excessive force against demonstrators
- Threatening Facebook posts by the Israeli military
- Search and rescue, demand to release the bodies
- Demand for a criminal investigation
- Urgent medical treatment for the wounded outside Gaza

Summary of main concerns

- The principle of **equality and non-discrimination** has still not been explicitly codified in Israel's domestic legal system, and the proposed *Basic Law: Israel as the Nation-State of the Jewish People* threatens to further weaken this right for Palestinian and other non-Jewish citizens of Israel;
- Palestinian citizens of Israel and Palestinian women citizens in particular continue to be **under-represented in the civil service**, and in senior making positions and in key ministries;
- The Knesset is enacting a series of laws for the **de facto annexation** of vast areas of East Jerusalem and the wider West Bank, entailing the confiscation and expropriation of Palestinian land, in gross violation of international human rights and humanitarian law, including the right to self-determination of the Palestinian people;
- Israel's **new draconian Anti-Terror Law (2016)** contains broad and vague definitions of terrorism and is expected to significantly violate the rights of Palestinians declared to be "security suspects";
- The Israeli security forces continue to enjoy almost **total impunity** for incidents of excessive use of force against Palestinians, both residents of the West Bank/East Jerusalem and Palestinian citizens of Israel, including victims of extra-judicial executions and other death cases;
- In a serious violation of the right to dignity, Israel has dramatically increased the use of its policy of **detaining the bodies of Palestinians** killed by the Israeli military and security forces and using them as "bargaining chips" for negotiations with the Palestinian authorities, following an extreme wave of violence that began in September 2015. Israel has also detained the bodies of Palestinian citizens of the state killed by the Israeli security forces and used their detention to impose restrictive conditions on the funerals of the deceased;
- The **law banning family unification** in Israel between Palestinian citizens of Israel and Palestinians from the OPT remains in place since 2003 despite repeated calls for its revocation from UN human rights treaty bodies, and 15 years after its enactment as a "temporary order";
- New legislation is dramatically **shrinking the space for human rights organizations** and defenders, including a law Banning BDS Supporters from Entering Israel (2017) and a "blacklist" of 20 organizations, and a new law placing restrictions on "Foreign Government Funding" for NGOs;
- Israeli law against alleged **incitement on social media** outlets is being implemented disproportionately and discriminatorily against Palestinian citizens of Israel, and a newly created "Cyber Unit" within the State Attorney's Office is censoring users' posts, with no legal authority;
- Several pieces of new legislation seek to **delegitimize the elected parliamentary representatives** of Palestinian citizens of Israel and limit their participation in the national political life of the state as individuals and as a national minority group;
- Israel has recently taken alarming steps to **revoke the citizenship of Palestinian citizens of the state**. Additionally, increasing numbers of Palestinians from Jerusalem are subject to **revocations of the residency status** on spurious grounds of "breach of loyalty", in a clear violation of international human rights and humanitarian law.
- During the **recent protests in Gaza**, the Israeli military killed 29 Palestinians, including three children, and injured upwards of 1,990. Israeli military actions have resulted in breaches of the Convention and international humanitarian law involving the **use of lethal and other excessive force** against demonstrators, holding the bodies of the deceased, and the denial of urgent medical treatment outside Gaza for the wounded.

1. New discriminatory laws and Jewish Nation State Bill further imperil the principle of equality and non-discrimination in Israel (ICCPR articles 2, 26, 27)

In its last review in 2014, the Committee reiterated its concern that the principle of equality and non-discrimination was not explicitly codified in Israel's basic laws, and recommended that Israel amend the Basic Law: Human Dignity and Liberty – 1992 to remedy this shortcoming. The Committee further recommended that Israel should review all laws that discriminate against Palestinian citizens of Israel and ensure that future legislation is compatible with the aforesaid principle (CCPR/C/ISR/CO/4 para. 7).

Discriminatory Laws

In direct contradiction of these recommendations, laws that discriminate against Palestinian citizens of Israel remain intact, and the Israeli Knesset has enacted further additional discriminatory laws since 2014. Many of these laws are discussed throughout this report.

The Jewish Nation State Bill: The Israeli government is also currently promoting a new Basic Law, the proposed Basic Law: Israel as the Nation-State of the Jewish People.¹ The purpose of this legislation is to constitutionally enshrine – for the first time – the identity of the State of Israel as the national home of the Jewish people.

The declared purpose of the bill, as set forth in the explanatory notes, is to preserve the basic character of Israel as the nation-state of the Jewish people, and it further specifies (Article 1c) that “the right to exercise national self-determination in the State of Israel is exclusive to the Jewish people.” The bill states that the official language of the state is Hebrew, demoting Arabic, which is currently a second official language in the state, to a language with “a special status” (Articles 4b and 4c). It also establishes Jewish religious law as a legal source of law in the country's juridical system (Article 11), and defines Jerusalem as the capital of Israel (Article 3).

Further, under the law (Article 7b), “The state may allow a religious or a national community to establish a separate [residential] settlement” in Israel. This provision contradicts a preexisting constitutional principle anchored in Israeli Supreme Court jurisprudence, and primarily in a landmark Supreme Court decision delivered in the *Qa'dan* case in 2000 in which the court held that discrimination between Jewish and Arab citizens of the state in the use and allocation of state-controlled land was impermissible.² While this principle has not been implemented in practice on the ground, this new provision seeks to overturn it and establish segregation as a new legal norm. On 12 February 2018, Israeli Justice Minister Ayelet Shaked stated at a conference held by the Israeli Congress on Judaism and Democracy that the goal of the Jewish Nation-State bill was to prevent [Israeli Supreme Court] decisions such as the *Qa'dan* judgment, and that, contrary to that ruling, she supports the establishment of towns solely for Jews.³

¹ An English version of the bill is available from the Israeli Justice Ministry:

<http://www.justice.gov.il/StateIdentity/InformationInEnglish/Documents/BasicLawBill.pdf>

² (Supreme Court) H.C.J. 6698/95, *Adel Qa'dan v. Israel Land Administration*, et al., P.D. 54 (1) 258.

³ For more information see, e.g., Revital Hovel, “Justice Minister: Israel Must Keep Jewish Majority Even at the Expense of Human Rights,” *Haaretz*, 13 February 2018: <https://www.haaretz.com/israel-news/justice-minister-israel-s-jewish-majority-trumps-than-human-rights-1.5811106>

Because the proposed legislation has the status of a Basic Law, its enactment could be used to justify through law widespread discrimination against Palestinian citizens of Israel, as non-Jews, and is therefore highly dangerous to the exercise of their rights under the ICCPR. The lack of a constitutionally-guaranteed right to equality in Israel increases the threat posed by this new legislation to the rights of Palestinian citizens of Israel and other non-Jewish citizens and residents. Israel has yet to include the right to equality – including equality between men and women and between Jewish and Arab citizens of Israel – and the prohibition of both direct and indirect discrimination in its Basic Law: Human Dignity and Liberty (1992). On the contrary, this Basic Law emphasizes the character of the State as a Jewish State. As a result, the fundamental right to equality and freedom from discrimination, a cornerstone of international human rights law, is not enshrined as a constitutionally-protected right in Israel, and is currently protected, and only partially, by judicial interpretation alone.

On 7 May 2017, the Ministerial Committee for Legislation voted in favor of the bill and it now has the support of the government. The Knesset voted in favor of it in a preliminary reading on 10 May 2017 and it is currently being prepared for a first reading.

2. Underrepresentation of Palestinian citizens in the Israeli civil service (ICCPR art. 2, 25 and 26)

In its last review, the Committee voiced concern over the fact that Arab citizens of Israel continue to be underrepresented in the Israeli civil service, and recommended that Israel should increase its efforts to achieve equitable representation for Arab citizens, particularly in decision-making positions within legislative and executive bodies (CCPR/C/ISR/CO/4 para. 8).

The Israeli government has failed to address the low representation of Arab citizens in the civil service, particularly Arab women. Adalah found no cohesive process or plan aimed at raising the proportion of Arab women in the civil service. **As of 2014 Palestinian citizens of Israel in total held just 8-9% of civil service positions (short of the government’s 10% target by 2012), with Arab women comprising only around 1.8% of the total.** By contrast, the proportion of Israeli Jewish women in the civil service has risen significantly. Adalah found that the affirmative action laws regarding the adequate representation of women in the civil service were implemented effectively in regards to Jewish women, but that there was no similar implementation of these provisions for Arab women, either through the law for improving women’s representation or the law for improving representation of Arab citizens of Israel in general.⁴ Without specific affirmative action measures aimed at increasing the numbers of Arab women in the civil service, their representation is therefore unlikely to improve.

Indeed, the percentage of Arab workers who made up the total of newly hired workers in the public sector declined, from 14.3% in 2012 to 12.5% in 2014.⁵ This lack of a concerted effort is particularly

⁴ Under Article 15a(a) of the Civil Service Law (Appointments) – 1959, which stipulates that government ministers must ensure appropriate representation of both women (amendment dated 1995) and the Arab population (amendment dated 2001). Sawsan Zaher, “Ensuring Appropriate Representation of Arab Women in the Civil Service in Israel,” March 2013: <http://adalah.org/Public/files/English/Newsletter/102-March2013/Sawsan-Zaher-ArabWomen-Civil-Service-03-13.pdf>.

⁵ Sikkuy, “Calcalist: The Civil Service Commission resumes publishing reports: The state has failed to integrate Arabs into the public sector,” 9 December 2015:

detrimental to Arab women: the gender gap between Arab men and women newly hired in the civil service actually increased between 2012 and 2014, when Arab women accounted for 37.4% of newly-hired Arab workers, down from 44.8% two years earlier.⁶ Further, Arab workers are extremely underrepresented in key ministries, constituting just 3% of the staff of the Finance Ministry, 4% of the Ministry of Housing and Construction, and 2.8% of the Health Ministry in 2014.⁷ Fifteen government ministries and administrative units had no Arab workers whatsoever, and Arab citizens of Israel in general and Arab women in particular are scarce at the levels of management and directorship.⁸

3. The new wave of “Annexation laws” and policies designed to seize Palestinian private land in the West Bank including East Jerusalem (ICCPR articles 1, 2, 9, 12, 17, 18 and 26)

In its last review, the Committee expressed its concern over the ongoing confiscation and expropriation of Palestinian land in the OPT, including East Jerusalem (CCPR/C/ISR/CO/4 para. 17). In the intervening years, legislative efforts to annex Palestinian-owned land in the West Bank, including East Jerusalem to Israel, have accelerated rapidly, in a further grave breach of the right to self-determination of the Palestinian people in its homeland. The most notable new “annexation laws” and bills are the following:

The Settlements Regularization Law (Law for the Regularization of Settlement in Judea and Samaria) – 2017: Enacted by the Knesset on 6 February 2017, this new law allows the State of Israel to expropriate vast tracts of private Palestinian lands in the West Bank for the purposes of settlement construction, in violation of international law and of Palestinians’ property rights. The law establishes a mechanism through which Israeli settlements built on private Palestinian land in the West Bank can be “legalized” or “regularized” – from the perspective of domestic Israeli law – via retroactive expropriation, planning, and zoning regulations. The law sets out a new process to legalize about half of Israel’s settlement outposts, as well as about 3,500 additional homes built illegally in settlements recognized as legal by Israel, against the international consensus. It instructs the authorities in the area to appropriate the land, or the rights to use and hold it, if there has been “settlement” on it that was carried out “in good faith” or “received the state’s consent for its construction” (Article 3).

The transfer of the Occupying Power’s civilian population into occupied territory is a war crime, according to the Rome Statute of the International Criminal Court. The land grab enabled by the law, for ethnic-ideological reasons, amounts to “domination” by one group over another group, which is also strictly prohibited under international law, including the Rome Statute. The exploitation of occupied territory for the political and civilian needs of the Occupying Power and application of Israeli law in the OPT are further violations of international law.

The government of Israel’s official response to the petition from August 2017 regards West Bank settlements as already annexed to Israel. The government contends that: (i) the law offers financial compensation to Palestinian land-owners and thus the confiscation is lawful; (ii) the law in fact benefits

<http://www.sikkuy.org.il/wp-content/uploads/2015/12/CivilService-Commission-is-reporting-again-on-Arabs-in-the-civil-service-Calcalist-9.12.15-ENGLISH.pdf>

⁶ Ibid.

⁷ Ibid.

⁸ Ibid. A notable recent hire is Attorney Mariam Kabha, who was selected to head the Equal Employment Opportunity Commission, making her the highest-ranking Arab woman in the Israeli civil service.

these land-owners who could not sell to Israelis due to ‘racist’ Palestinian laws; (iii) the Knesset may legislate matters in the West Bank since they relate to Israelis living there; (iv) Israeli settlers are part of the local civilian population; (v) Israeli settlements in the West Bank are of national importance and thus land confiscation is justified; and (vi) the fact that Palestinians do not vote for the Knesset is irrelevant, as they also do not vote for the Military Commander. In August 2017, the SCT issued a partial injunction freezing parts of the law in response to litigation against the law brought by Adalah and partners.⁹

In November 2017, the Attorney General responded to the petition; earlier, he declared that the law should be repealed because it violates IHL and that he would not defend it in court. However, in his response, he also stated that Israel has “a number of other tools” at its disposal allowing it to “validate” Israeli construction on private Palestinian land that was transferred to a settlement “in good faith”. He also noted other laws, which would allow for expropriation of Palestinian land for “public needs”, such as constructing an access road to a settlement outpost.

In December 2017, the SCT issued an *order nisi* (“order to show cause”), which instructed the state to explain “Why should it not be determined that the Settlements Regularization Law is invalid in all areas of the West Bank, and that [Israel's West Bank military commander] is therefore forbidden to act in accordance with the law... and why should it not be determined that the Settlements Regularization Law is null and void since it is unconstitutional.” A hearing on the case before a wide panel of Supreme Court justices has been scheduled for 3 June 2018.

The Negev Development Authority Bill.¹⁰ A proposed amendment to the Negev (Naqab) Development Authority Law seeks to give settlements equal legal status to that of communities in the Naqab, effectively annexing parts of the southern West Bank to Israel. According to the proposed amendment, the law is to be applied to certain areas of the West Bank, thereby rendering the legal status of settlements equal to that of towns and villages in the Naqab region of southern Israel. As well as contradicting provisions of Israeli domestic law, the bill also violates IHL and stands to exacerbate the human rights violations that accompany the establishment and existence of the settlements. The bill has been designated for preliminary discussion before the Knesset.

The “Jerusalem and its Daughters” Bill.¹¹ This proposed law seeks to annex a ring of West Bank settlements – Beitar Illit, Ma’ale Adumim, Givat Ze’ev, Gush Etzion, and Efrat – that contain over 230,000 settlers to the Jerusalem municipality, and impose Israeli civil law in these occupied areas. The bill violates IHL, as it a large-scale confiscation of property belonging to a protected population. The bill allows for the seizure of occupied territory, a change in the designation of this land, and the establishment of new facts on the ground, which alter the laws that apply to these areas. It would cut off these areas from the rest of the West Bank, violate the right of Palestinian residents to make full use of their land, and limit freedom of movement and access for Palestinians. The bill has been designated for preliminary discussion before the Knesset.

⁹ Adalah, together with the Jerusalem Legal Aid Center and Al Mezan Centre for Human Rights petitioned the Supreme Court of Israel against the law on 8 February 2017 on behalf of 17 Palestinian local councils. See HCJ 1308/17, *Silwad Municipality, et. al. v. The Knesset, et. al* (case pending). Israeli NGOs Yesh Din, ACRI, and Peace Now also petitioned against the law.

¹⁰ Bill no. P/4014/20, dated 14 March 2017.

¹¹ Bill no. 4109/20, dated 20 March 2017.

A slew of other bills are at various stages of the legislative process similarly seek to de facto annex Jewish Israeli settlements to Israel, either *en masse* or at the level of single settlements or settlement blocs. They do this using several means, including the application of Israeli domestic law to the settlements in the West Bank,¹² and other bills that seek to apply specific laws, e.g. the Law and Administration Ordinance¹³ and Israel's planning and building laws.¹⁴ Notably, Israel's annexation of East Jerusalem in 1967 was achieved via the same mechanism, i.e. the application of Israel domestic law to the area. At least 20 such bills aim to apply Israeli domestic law to the settlements one settlement or one bloc at a time. A few examples are bills that specifically target the Jordan Valley settlements,¹⁵ Hebron and surrounding settlements,¹⁶ Ariel,¹⁷ Modi'in,¹⁸ and Gush Etzion,¹⁹ as well as the "Ma'ale Adumim Sovereignty" Bill.²⁰

In addition to laws and bills, the Israeli government is also pursuing policies to expand settlements and designate borders in the occupied West Bank. For example, in May 2017, Adalah sent a letter to Israeli authorities demanding that they cancel open tenders offering "state lands" in the West Bank because the Israel Land Authority (ILA) has no legal authority in the 1967 Occupied Territories. During 2016 and 2017, the ILA published open tenders in the West Bank settlements of Givat Ze'ev, Ma'ale Adumim, Alfei Menashe, Ariel, Beitar Illit, Karnei Shomron, and Oranit. In August 2017, Adalah sent a letter to senior Israeli officials demanding that they cancel or alter the mandate of the Interior Ministry's "borders committee", which was established in March 2017 and charged with determining the jurisdictional boundaries of Israeli settlements in the West Bank. The appointment of an Israeli ministerial committee that operates in the OPT, according to Israeli domestic law, amounts to a *de facto* annexation of West Bank land to Israel, Adalah argued, in gross violation of international law.

4. Israel's Anti-Terror Law – 2016, arbitrary, sweeping and discriminatory aspects (ICCPR articles 2, 7, 9, 10 and 14)

In its last review, the Committee raised concerns about the legislative process for Israel's Anti-Terror Law, with regard to the definition of terrorism within the law, and legal safeguards afforded to persons suspected of or charged with committing a crime under the law (CCPR/C/ISR/CO/4 para. 11). On 15 June 2016, the Israeli Knesset enacted a new Anti-Terror Law.²¹ The law substantially expands the scope of the Israeli penal law by incorporating severe provisions of the British Mandate Emergency Regulations and other emergency orders. It contains broad and vague definitions of terrorism and terrorist organizations, which may be exploited by the police and the General Security Services ('Shabak' or Shin Bet) to criminalize legitimate political action, and even humanitarian and cultural activities, by

¹² Bill no. P/2574/20, dated 2 February 2016.

¹³ Bill no. P/3046/20, dated 20 June 2016.

¹⁴ Bill no. P/2226/20, dated 23 November 2015.

¹⁵ Bill no. P/3598/20, dated 27 December 2016.

¹⁶ Bill no. P/156/20, dated 4 May 2015.

¹⁷ Bill no. P/4040/20, dated 30 March 2017.

¹⁸ Bill no. P/260/20, dated 7 May 2015.

¹⁹ Bill no. 4039/20, dated 7 March 2017, and bill no.3947/20, dated 4 May 2015.

²⁰ Bill no. P/3244/20, dated 1 August 2016.

²¹ An unofficial translation of the law to English is available at:

<https://www.adalah.org/uploads/uploads/TheCounterTerrorismLaw2016.pdf>

Palestinian citizens of Israel and Palestinians in East Jerusalem against Israeli policies and the Occupation. The law establishes criminal offenses such as public expressions of “support” or “empathy” for terror organizations, and significantly increases the maximum sentences for such offenses.

The new law, which spans over 100 pages, is expected to significantly harm the rights of Palestinians detained for suspected security-related offenses, for example by allowing the widespread use of “secret evidence” by the state prosecution, thereby impeding the possibility of substantively objecting to repressive decisions based on their merits before the judiciary. It further contains draconian measures for investigating security detainees, adding to a pre-existing system that provides fertile ground for the security agencies to employ illegal methods in the interrogation room; removes essential procedural safeguards from security detainees that are provided to criminal suspects, including prompt access to a lawyer and judicial review; and lowers the evidentiary requirements of the state in such cases. It is liable to result in serious human rights violations and to undermine democratic principles even further.

5. The excessive use of force by the Israeli security forces, including extra-judicial executions, and the lack of accountability for them (ICCPR articles 2, 6, 7, 9, 21, 24, 26)

Nota bene: Information about the impunity afforded to members of the Israeli military in cases involving deaths and injuries sustained by Palestinians in Gaza, and the lack of accountability for these atrocities, which include war crimes, and on which Adalah worked and is continuing to monitor especially concerning the 2014 Gaza War, will be presented in a report by partner human rights organization Al Mezan Centre for Human Rights.

Work undertaken by Adalah and Al Mezan concerning the recent protest demonstrations in Gaza, beginning on 29 March 2018, in which the Israeli military used excessive force to kill 29 Palestinians and injure upwards of 1,990 are presented as an annex to this report.

In this report, we focus on the denied of accountability for death cases involving Palestinians in East Jerusalem and the West Bank and for Palestinian citizens of Israel.

In the Committee’s 2014 concluding observations on Israel, it expressed its concern at “persistent reports of excessive use of lethal force by the State party’s security forces, in particular the Israel Defense Forces, during law enforcement operations against Palestinian civilians, including children, particularly in the West Bank, including East Jerusalem, and in the Access Restricted Areas of Gaza,” and at the fact that, “accountability for such acts remains weak.” The Committee further called on Israel to prevent all incidents of excessive use of force, “ensure that prompt, thorough, effective, independent and impartial investigations are launched into all incidents involving the use of firearms by law enforcement officers,” and “ensure that those responsible for the disproportionate demolition of properties and the excessive use of force during arrest operations are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are provided with effective remedies” (CCPR/C/ISR/CO/4 para. 13).

The Israeli security forces continue to enjoy almost total impunity for incidents of excessive use of force against Palestinians, both Palestinian residents of the West Bank/East Jerusalem and Palestinian citizens of Israel, including victims of extra-judicial executions and other death cases.

Extra-judicial executions (EJEs)

Adalah and Addameer: Prisoner Support and Human Rights Organization have recently worked on five complaints filed to the Justice Ministry's Police Investigation Department (PID) in cases of extra-judicial execution (EJEs) of Palestinians from East Jerusalem.²² To date, all five cases have been closed with the finding that "no crime has been committed". No indictments have been filed to date against any security force officers responsible. Adalah and Addameer filed appeals in these cases, arguing that the initial probes were seriously flawed. The table below summarizes the current status of the cases.

Case/complaint	State's response	Current status
1. Fadi Alloun , 19 years old, East Jerusalem (EJ). Complaint filed October 2015.	April 2016 - Case closed "No crime has been committed."	Sept 2016 - Preliminary appeal to the AG. January 2017 - Mahash finally provided Adalah with the investigation materials after legal action threatened. March 2017 - Submitted additional arguments to appeal based on new materials obtained; decision pending.
2. Mustafa Khateeb , 17 years old, EJ Complaint filed December 2015.	April 2016: Case closed "No crime has been committed" , according to the AG.	August 2016 - Appeal filed, rejected in February 2017. Adalah drafted a SCT petition; however, the Khateeb family is considering whether they wish to continue with this case.
3. Mu'taz Ewisat , 16 years old, EJ Complaint filed January 2016.	Case closed.	2016 - Petitioned SCT for an autopsy and for the state to release the body. December 2016 - Received autopsy report from Palestinian doctor who participated in autopsy. March 2017 - Received autopsy report from Abu Kabir. August 2017 - Appeal filed, decision pending.
4. Muhammad Abu Khalaf , 19 years old, Kufr 'Aqab, EJ Complaint filed April 2016.	May 2016 - Case closed "No crime has been committed."	December 2016 - Received autopsy report from Palestinian doctor who participated in autopsy. March 2017 - Received autopsy report from Abu Kabir (Israeli autopsy institute). August 2017 - Appeal filed, decision pending.
5. Ahmad Abu Shaaban , 22 years old, EJ; Complaint filed Jan 2016.	June 2016 - Case closed "No crime has been committed."	July 2016 - Mahash claims there is no investigation material. Appeal filed, decision pending.

The Israeli investigatory authorities failed to follow minimum standards in its investigations, which are characterized by: a lack of promptness, with the PID very slow to respond to inquiries or make decisions; a lack of transparency, with inaccessible investigatory materials and documents missing from

²² For more information, see Adalah briefing paper, "Extra-judicial executions of Palestinians by Israeli police and security forces and the failure to investigate these events," updated 14 March 2017: <https://www.adalah.org/en/content/view/9081>

the investigatory files; and a lack of independence/impartiality, with no independent actions undertaken by the PID in these cases. The PID receives material solely from the police, gathers no independent witness statements, and makes no further checks of the police evidence. The result is near-blanket impunity and a systemic lack of accountability and justice remedy.

Excessive use of force against Palestinian citizens of Israel

According to official information provided by the Israeli State comptroller in his report of April 2017,²³ a total of 13,061 complaints were filed against police conduct to the PID in 2013-2015, of which 69% were not investigated, 11.8% were closed after investigation, 2.4% led to disciplinary hearings, and just 2.4% resulted in criminal charges being filed. The report did not provide statistics on the number of convictions obtained and any penalties imposed. It does note, however, that police officers are rarely suspended from their positions, even when they are convicted of offenses (p. 222), and discusses some of the different internal procedures and penalties (like delaying promotion) (pp. 228, 235, 242). The PID is not a fully independent investigatory body and particularly a high number of complaints filed by Arab citizens against police officers are not properly and effectively investigated.

Even in cases in which Palestinian citizens of Israel have been killed by the security forces, investigations are sub-standard and impunity is the norm. No indictments have ever been filed against police officers or commanders accused of the killing of 13 unarmed Palestinian citizens of Israel and injuring hundreds more during the **October 2000 protest demonstrations** in Israel. In October 2000, Israeli police and special police sniper units killed 13 unarmed Palestinians (12 citizens of Israel and one Gaza resident) and wounded hundreds more when Palestinian citizens of Israel staged mass demonstrations throughout the country to protest Israel's oppressive policies against Palestinians in the OPT at the beginning of the Second Intifada. The dead and wounded were hit by live ammunition, rubber-coated steel bullets ("rubber bullets"), and tear gas fired by Israeli police officers. In its report issued in 2003, the Or Commission charged with investigating the incident found that there was no real threat posed to police officers and thus no justification for the live gunfire that led to the killings of the 13 Palestinians. The commission also determined that the firing of rubber-coated steel bullets, which produced fatal results, was contrary to police regulations. In January 2008, the Attorney General closed the investigation files into the October 2000 killings.

In a recent case, in January 2017, Israeli police forces used excessive force and killed a 50-year-old math teacher, Ya'akoub Abu Al-Qi'an, after Israeli police opened fire on his car as he was driving through the Bedouin village of Umm al-Hiran in the southern Naqab (Negev) desert region of Israel during the State's military-like operation to demolish homes in the village. The operation involved around 450 armed police officers, who stormed the village accompanied by Israeli military helicopters and bulldozers. During the operation, state forces demolished 15 structures. During the same incident, Arab MK Ayman Odeh (Joint List) sustained wounds to the head and the back when Israeli police opened fire on him and other people present with sponge-tipped bullets.

Police claimed that Mr. Abu Al-Qi'an deliberately launched a car-ramming attack against the officers, and Security Minister Gilad Erdan and other police officials initially accused him of being a "terrorist". However, eyewitness accounts and video documentation of the events disprove this fallacious version of events. According to media reports, however, the Israeli Justice Ministry's Police Investigations

²³ Israeli State Comptroller, *Special Audit Report*, 5 April 2017, p. 192 (Hebrew).

Department closed its investigation into the police killing of Ya'akoub in December 2017, and to date, no officers have been held to account for his death.²⁴ The lack of accountability and the impunity granted to the security forces makes further injuries and fatalities a very real possibility in the impending demolition operation in Umm al-Hiran, which the state has announced will take place by the end of April 2018. (For more information on the state's imminent plans to demolish Umm al-Hiran and forcibly displace its residents by the end of April 2018, as well as on relevant state policies towards the Bedouin in the Naqab, please refer to an additional NGO report to the Committee submitted by Adalah and the Negev Coexistence Forum.)

6. Israel's policy of holding the dead bodies of Palestinians killed by Israeli police and military/security forces (ICCPR articles 2, 6, 7, 17, 18, 23, 26)

Since the extreme wave of violence beginning in September/October 2015, Israel has instituted a widespread policy of detaining the bodies of Palestinians, including citizens of Israel and residents of the OPT, killed by the Israeli police and/or military/security forces. The Palestinians held by Israel were alleged to have been carrying out attacks against Israeli civilians, police or soldiers. However, many were killed despite posing no immediate danger (e.g. suspected extrajudicial executions or EJs). In numerous cases involving Palestinian citizens of Israel and residents of East Jerusalem, Israel used the detention of the bodies, often held in deep-freezes, to impose restrictive conditions on the funeral arrangements planned by the families and communities of the deceased. For Palestinians from the West Bank and Gaza, Israel is primarily holding the deceased bodies as "bargaining chips" for negotiation with the Palestinian authorities, including Hamas. The holding of Palestinian bodies killed by Israeli forces is ***not a new phenomenon***, but recently, Israel has dramatically increased the use of this practice.

Adalah raised this issue before the Committee Against Torture in 2016, during its review of Israel. In 2016 the **UN Committee Against Torture** expressed concern in its concluding observations on Israel about the holding of Palestinians' bodies by Israel, and recommended that Israel "should take the measures necessary to return the bodies of the Palestinians that have not yet been returned to their relatives as soon as possible so they can be buried in accordance with their traditions and religious customs, and to avoid that similar situations are repeated in the future" (CAT/C/ISR/CO/5, paras. 42-43).

The withholding of the bodies of deceased Palestinians who have been killed by Israeli forces is a severe violation of international humanitarian law (for those living under Occupation) as well as international human rights law (for all) including violations of the right to dignity, freedom of religion, and the right to practice culture. The withholding of the bodies also greatly adds to the grief, anxiety and trauma of the families who are dealing with the loss of a loved one, and who are also being denied their cultural and religious rights to mourn and to bury them in accordance with their faith.

Below is a chronology of main legal actions, policies, Israeli Supreme Court (SCT) decisions, and new laws regarding this subject over the last two years.

²⁴ Adalah, "Closure of probe into Umm al-Hiran killing: Green light to continued deadly police violence against Arab citizens," 27 December 2017: <https://www.adalah.org/en/content/view/9336>

May 2016: Israel announced its intention to release the dead bodies of Palestinians from East Jerusalem that it had been withholding “within a short space of time”, in response to petitions submitted before the Israeli Supreme Court (SCT) by Adalah and Addameer demanding their immediate release. Several of the bodies had been detained for months, and the police often reneged on previous agreements signed by the state and the families and refused to release the bodies. The petitioners stressed that no law authorizes the police to hold bodies in these circumstances. The SCT urged the state to release the bodies to the families with whom it had agreements. However, it did not impose a timetable for releasing them.²⁵ The deceased bodies were all eventually released.

January 2017: The SCT accepted a petition filed by Adalah and ordered Israeli police to immediately release the body of Ya’akub Abu Al-Qi’an to his family for a funeral procession and burial without limits on the number of people participating, and during daylight hours.²⁶ Mr. Abu Al-Qi’an, a 50-year-old math teacher from Umm al-Hiran, was killed after Israeli police opened fire on his vehicle as he was driving through the Bedouin village during state preparations for a large-scale home demolition. Adalah continued to maintain that the police had no authority to hold the body and that the policy is unlawful.

January 2017: Israel’s Security Cabinet decided that Israel would hold on to the bodies of Palestinians who carried out attacks and those belonging to Hamas.²⁷

July 2017: In response to a petition by Adalah and the families of three men, Palestinian citizens of Israel, who shot and killed two police officers at the Al Aqsa Mosque, and who were being held by the Israeli police, the SCT delivered a precedent-setting ruling that there was no Israeli law specifically authorizing the police to hold bodies.²⁸ The bodies of the three men were subsequently released to their families and their funerals were held in the Arab town of Umm al-Fahem in northern Israel.

December 2017: The SCT ruled that the state had no authority to hold the bodies of 16 Palestinians from the West Bank as bargaining chips.²⁹ The state asked for second hearing in the case, which Adalah, the Jerusalem Legal Aid Center (JLAC) and the Commission of Detainees and Ex-Detainees opposed. However, the Court granted the state’s request in February 2018, and a second hearing on the case will take place in June 2018.³⁰ The bodies of the deceased Palestinians remain in state detention.

March 2018: The Knesset enacted a new law that allows the Israeli police to hold the bodies of Palestinians killed by the police or other security forces until families agree to preconditions on funeral

²⁵ HCJ 2882/16, *Ewisat v. The Israel Police et al.* (decision delivered 5 May 2016).

²⁶ HCJ 708/17 *Rabea Issa Abu Al-Qi’an v. Israel Police* (decision delivered 23 January 2017).

²⁷ This decision is unpublished. However, the Supreme Court and the Attorney General have referred to this decision in HCJ 4466/16, *Muhammed Eliyan v. Commander of the Israeli Army in the West Bank* (decision delivered 14 December 2017). The state has requested and the SCT has agreed to an additional hearing in this case, now HCJ 10190/17 *Commander of the Israeli Army in the West Bank v. Muhammed Eliyan* (case pending). Hearing to be held on 17 July 2018.

²⁸ HCJ 5887/17 *Ahmed Musa Jabareen, et. al. v. The Israeli police, et. al.* (decision delivered 25 July 2017).

²⁹ HCJ 4466/16, *Muhammed Eliyan v. Commander of the Israeli Army in the West Bank* (decision delivered 14 December 2017).

³⁰ HCJ 10190/17 *Commander of the Israeli Army in the West Bank v. Muhammed Eliyan* (case pending). Hearing to be held on 17 July 2018.

arrangements. The law applies to Palestinian citizens of Israel, Palestinian residents of East Jerusalem, and to the Israeli police only. It does not apply to West Bank Palestinians or to the Israeli military.³¹

April 2018: Adalah and Al Mezan Center for Human Rights sent an urgent letter to senior Israeli officials demanding that they order the immediate return of the bodies of two Palestinian residents of Gaza to their families for burial. The two men, believed to have been armed, were killed by Israeli military gunfire during the recent protest demonstrations on 30 March 2018 and their bodies were subsequently taken from inside the Gaza Strip by Israeli troops.³²

7. The ongoing ban on unification for Palestinian families (ICCPR art. 17, 23, 24 and 26)

In its last review, the Committee reiterated its concerns about the Citizenship and Entry into Israel Law (Temporary Order) – 2003, and again called for its revocation (CCPR/C/ISR/CO/4 para. 21). The law bans family unification in Israel between Palestinian citizens of Israel and Palestinians from the OPT, affecting thousands of families. The law has now been in effect for 15 years, renewed perfunctorily by the Knesset each year when it expires. The law was last extended in June 2017, and is currently valid until 30 June 2018. While officially a temporary measure, Israel is using the law to create a permanent ban on Palestinian family unification in Israel, despite the severe violations of human rights entailed, including of the rights to equality, dignity and family life. This flagrantly discriminatory law continues to ban family unification in Israel, with certain exceptions, between Palestinian citizens of Israel and their spouses who are residents of the OPT and certain Arab and Muslim countries classified by Israel as “enemy states”, based entirely on the spouse’s nationality.

Numerous other UN human rights treaty bodies have repeatedly criticized the law, and called on Israel to revoke it and to facilitate family unification:

- In 2017, the CEDAW reiterated its call on Israel from 2011 to review the law in order to facilitate family reunification of all citizens and permanent residents of Israel, and to bring the law into compliance with the CEDAW Convention, while respecting the principles of equality and proportionality (para. 41, CEDAW/C/ISR/CO/6).
- In 2013, the CRC expressed concern that thousands of Palestinian children are deprived of their right to live and grow up in a family environment with both of their parents or with their siblings and that thousands live under the fear of being separated because of the severe restrictions on family reunifications. The CRC also recommended that Israel revoke the law (paras. 49 and 50, CRC/C/ISR/CO/2-4);
- In 2012, the CERD also called on Israel to revoke the law, and to “facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin” (para. 18, CERD/C/ISR/CO/14-16).
- The CESCR also called on Israel in its concluding observations in 2011, “to guarantee and facilitate family reunification for all citizens and permanent residents irrespective of their status or

³¹ Adalah, “Knesset passes law allowing Israeli police to hold bodies of Palestinians as precondition for funeral arrangements,” 12 March 2018: <https://www.adalah.org/en/content/view/9430>

³² Adalah, “Adalah, Al Mezan demand Israel return bodies of two dead Gaza men taken by Israeli military,” 2 April 2018: <https://www.adalah.org/en/content/view/9453>

background, and ensure the widest possible protection of, and assistance to, the family” (para. 20, E/C.12/ISR/CO/3).

On 12 February 2018, Israeli Justice Minister Ayelet Shaked made inflammatory, anti-democratic remarks against human rights and against Palestinian citizens of Israel at a conference held by the Israeli Congress on Judaism and Democracy.³³ Regarding the amendment to the Citizenship Law, which prevents the unification of Palestinian families, Minister Shaked stated that “There is place to maintain a Jewish majority even at the expense of the violation of human rights”, and that “I was disturbed that in both the state’s position and the reasoning of the justices, the State did not defend the law for national demographic reasons.”

8. Threats to freedom of expression and freedom of association

New legislation and shrinking civil society space (ICCPR articles 19 and 22)

In its last review, the Committee referred with concern to the “chilling effect” that the Anti-Boycott Law – 2011 may have on the freedoms of opinion, expression and association (CCPR/C/ISR/CO/4 para. 22). Since that time the space for human rights organizations and defenders has shrunk dramatically, due in large part to new legislation that seeks to curb their activities, including the following:³⁴

Law Banning BDS Supporters from Entering Israel:³⁵ Enacted by the Knesset on 6 March 2017. This law bans entry of foreign nationals and of Palestinians from the West Bank if they or the organizations they belong to publicly expressed support for boycott, divestment and sanctions (BDS) against the State of Israel or against Israeli settlements. It violates basic civil and political rights of Palestinian residents of the OPT, as well as Palestinian citizens of Israel, as it prohibits entry of foreigners with whom they have family ties, work relations and other connections solely based on those individuals’ political expressions. The text of the law reads: “No visa and residency permit of any type will be given to a person who is not an Israeli citizen or does not have a permit for permanent residency in the State of Israel if he, [or] the organization or entity for which he works, has knowingly issued a public call to impose a boycott on the State of Israel, as defined in the Preventing Harm to the State of Israel through Boycott Law, 5771-2011, or has committed to participate in such a boycott.”

In January 2018, the Government published a “blacklist” of over 20 organizations from Europe, the United States, South America, and Africa whose employees and/or members are banned from entering Israel due to their alleged support of the boycott, divestment, and sanctions (BDS) campaign.³⁶ Numerous activists have been denied entry to Israel on the basis of this law.

³³ For more information see, e.g., Revital Hovel, “Justice Minister: Israel Must Keep Jewish Majority Even at the Expense of Human Rights,” *Haaretz*, 13 February 2018: <https://www.haaretz.com/israel-news/justice-minister-israel-s-jewish-majority-trumps-than-human-rights-1.5811106>

³⁴ For more information see Adalah, “Israel: New Discriminatory and Anti-Democratic Legislation,” September 2017: https://www.adalah.org/uploads/uploads/New_Discriminatory_Laws_and_Bills_11.9.2017.pdf

³⁵ For the text of the law in Hebrew see: https://www.nevo.co.il/law_word/law14/law-2610.pdf

³⁶ For a list of these organizations, see, Adalah, “Israel releases ‘BDS blacklist’ banning 20 NGOs from entering country,” 7 January 2018: <https://www.adalah.org/en/content/view/9347>

NGO “Foreign Funding” Law:³⁷ Enacted on 11 July 2016. This new law requires NGOs that receive more than 50% of their annual budget from foreign governments to declare their sources of funding in all publications, including letters to government and public officials, and in reports to the Registrar of Non-Profit Associations. As 25 of the 27 Israeli organizations that currently receive more than half their budget from foreign governments are human rights organizations, it is clear that these groups, which are highly critical of the Israeli government’s policies particularly in the OPT, were targeted by the law.

The US, the EU, numerous legislators in EU member state parliaments including the German Parliament, among others, criticized the law and called on the Israeli government not to support its passage. At the end of June 2016, three UN human rights experts urged MKs not to approve the law. The experts expressed grave concern that the legislation would chill the speech of human rights NGOs.

The political motivations behind the law are clear since all registered NGOs are already legally required to comply with invasive reporting requirements that mandate them to publish quarterly reports on any funding received from foreign governments or publicly-funded foreign donors. Thus, this information is already publicly available and can even be found on the websites of the targeted human rights organizations and the Registrar of Associations. Significantly, the law does not require transparency of donations received from private individuals, leaving right-wing settler organizations, which are heavily funded by private US donors, unaffected. Financial assistance from international sources is legitimate and necessary in states, such as Israel/the OPT, where serious human rights violations occur.

Additional bills that seek to impose arbitrary restrictions on human rights defenders are a bill to deny tax-exempt status to NGOs that criticize the State of Israel abroad,³⁸ and a denial of freedom of information bill targeting NGOs that receive their source of funding from foreign states.³⁹

Restrictions on freedom of expression online (ICCPR Articles 2, 7, 14, 18, 19, 26, 27)

Israel’s “Cyber Unit” as a tool for suppressing freedom of expression online: In 2015, the State Attorney’s Office established a “Cyber Unit”, which was charged with adapting the means available to the State Attorney’s Office to the challenges of law enforcement in cyberspace. According to a report it published in 2016, the unit operates both on the level of traditional criminal law enforcement, by opening investigations and filing indictments for offenses committed on the Internet, and in the realm of “alternative enforcement”, primarily regarding offenses of expression on the Internet.⁴⁰ Within the alternative track, the unit acts “to remove forbidden content, restrict access to it through search results on a search engine, block access to such contents, and suspend and bar Internet users”. Here the unit operates directly against the service providers both on a “voluntary” basis, in order to remove the prohibited content, and, if the provider does not cooperate with the unit, via requests to the courts to compel the providers to remove certain content.

According to the report, the unit has received cases regarding up to 2,241 items of content that allegedly violates the law since the start of its operations. Of these, 1,554 items were removed, 162 were partially removed, 422 were not removed, it was decided not to process 51, and 52 cases are

³⁷ For the text of the law in Hebrew see: http://fs.knesset.gov.il/20/law/20_lsr_346561.pdf

³⁸ Bill no. P/3667/20, dated 9 January 2017.

³⁹ The bill has not yet been officially promoted.

⁴⁰ See the report of the Cyber Unit: <http://www.justice.gov.il/Units/StateAttorney/Documents/annualcyber.pdf> (Hebrew)

ongoing. Of the total number of requests to remove content submitted by the unit, 2,023 were based on grounds of incitement to violence and terrorism, 155 on defamation and infringement of privacy, 34 on the breach a gag order, and two on unspecified grounds. In response to a request for information submitted by Adalah, in 2016 the Ministry of Justice stated that it did not save information about the identity of the publisher of the targeted content.⁴¹

Determinations made by the Cyber Unit that a certain expression posted on a social media network amounts to a criminal offense amounts to an unproven suspicion. The Cyber Unit is not authorized to impose sanctions based solely on this suspicion, let alone severe sanctions in the form of censorship. The act of demanding the removal of a post that has not yet been proven to constitute a criminal offense violates the rights to freedom of expression of the publisher. Moreover, the act of criminalizing expression without recourse to the courts and in the absence of any legal proceeding encroaches on judicial authority and harms the principle of separation of powers. Furthermore, the Cyber Unit violates the rights to plead one's case and to self-defense, as it censors certain posts on the Internet without hearing from the person who posted them. Moreover, even when the unit requests a court order to compel a service provider to remove a particular post, the hearing is conducted *ex parte*, i.e. not in the presence of the affected party, despite the fact that there is no statutory provision allowing a hearing to be held in this manner, a situation which violates the right to self-defense.

Discriminatory enforcement of Israeli law against alleged incitement on social media outlets: Adalah is deeply concerned that Israeli law against incitement is being enforced in a discriminatory way: the vast majority of arrests made in Israel in 2015 and the first half of 2016 for charges related to alleged incitement on social media outlets have been of Palestinian citizens of the state. According to Israeli police statistics, in 2016, 82% of those arrested for incitement-related offenses were Palestinian citizens of Israel, whereas only 18% were Israeli Jewish citizens.⁴² Statistics for 2015 are similar: 81% of those arrested for incitement-related violations were Palestinian citizens, and 19% were Jewish Israeli. In 2015, 43 people were charged with incitement-related offenses; 40 Palestinian citizens and 3 Jewish citizens (7%).⁴³

The discrimination revealed by this data is particularly grave given the fact that 70% of the 175,000 recorded posts in Israel that specifically incited to violence on social networks between June 2015 and May 2016 were actually made by right-wing Israeli Jews against Arabs and left-wing Jews.⁴⁴ Figures clearly show that the main people targeted by incitement on social media in Israel are in fact people who publicly oppose discrimination against the Palestinian minority in Israel and oppose the continuation of the occupation of the Palestinian territories.⁴⁵

Significantly, Israeli government officials themselves have made numerous online statements that appear to constitute incitement. Justice Minister Shaked, for example, has used her Facebook page to make violent and racist comments against Palestinians and African asylum-seekers. In July 2014,

⁴¹ Correspondence on file with Adalah. For more information, see Adalah. "Restricting the Online Freedom of Expression of Palestinian Citizens of Israel: Recent Practices and Trends," March 2018: https://www.adalah.org/uploads/uploads/Adalah_Facebook_report_March_2018.pdf

⁴² Statistics for 2015 are based on data supplied to the Movement for Freedom of Information by the police. Statistics for 2016 are based on data from the State's Attorney's Cyber Unit 2016 Annual Report,

⁴³ Ibid. for 2015.

⁴⁴ Berl Katznelson Foundation, The Incitement to Violence Report, 7 August 2016: <http://hasata.berl.co.il>

⁴⁵ Ibid.

Minister Shaked published a Facebook post calling for the killing of Palestinian mothers, saying, “They should follow their sons, nothing would be more just. They should go, as should the physical homes in which they raised the snakes. Otherwise, more little snakes will be raised there.”⁴⁶ At the time, the post received more than 4,900 likes and 1,200 shares, as well as comments from followers that echoed the post’s racist and violent sentiment.

9. New legislation and policies aimed at reducing the political participation of Palestinian citizens in Israel (ICCPR articles 2, 7, 10, 25, 26, 27)

Since the Committee’s last review of Israel, the Israeli government has supported the enactment of the following new legislation which all shares the common goal of delegitimizing the elected representatives of Palestinian citizens of Israel and limiting their participation in the national political life of the state as individuals and as a national minority group.

The Electoral Threshold Law – 2014:⁴⁷ The Knesset amended the Election Law in 2014 to raise the threshold required of political parties to enter the parliament from 2% to 3.25%, ahead of the March 2015 Israeli general elections. The goal behind this anti-democratic law was to substantially weaken or exclude the three main Arab political parties, which ran separately for the Knesset, with each attaining three-to-four seats. In response to the new law, the Arab parties decided to run together as a single slate – called the Joint List (*al-Qa’imah al-Mushtarakah* in Arabic) – despite their political and ideological differences (socialist-secular, religious, nationalist, etc.). The amended Election Law discriminates against the Arab parties and constitutes the imposition of the political will of the Israeli Jewish majority in the Knesset against the political participation rights of the Arab minority. Adalah and the Association for Civil Rights in Israel (ACRI) submitted an *amicus curiae* opinion arguing for the unconstitutionality of the new law before the Supreme Court, which dismissed the case in an 8-1 vote in January 2015.⁴⁸ During the elections, the law forced Palestinian citizens of Israel to forfeit their right to multi-party representation, with different ideologies and platforms, and to integrate their four main political parties into a single electoral list.

The Expulsion of MKs Law – 2016:⁴⁹ This law, enacted by the Knesset on 20 July 2016, allows a majority of 90 Knesset Members (MKs) to oust a serving MK for the full period of the Knesset’s remaining term on the following two grounds, as enumerated in Section 7A of the Basic Law: The Knesset: (1) incitement to racism; and/or (2) support for armed struggle of an enemy state or a terrorist organization against Israel. It presents a grave danger to the most basic civil rights in a democratic society: the right to vote and the right to be elected, and threatens to further restrict the space currently allowed for freedom of expression.⁵⁰ The law stipulates that when the Knesset decides on an expulsion, the statements of the “suspect” MK will also be examined and not only their aims or actions. It would therefore allow the

⁴⁶ The post has been removed but an archived version of it is available at: <https://archive.is/zWrrG>

⁴⁷ For the text of the law in Hebrew see: https://www.knesset.gov.il/review/data/heb/law/kns19_2.pdf

⁴⁸ HCJ 3166/14, *Yehuda Gutman v. Attorney General et al.* (petition dismissed 14 January 2014).

⁴⁹ For the text of the law in Hebrew see: http://fs.knesset.gov.il//20/law/20_lsr_347851.pdf

⁵⁰ Adalah, “Israeli Knesset’s approval of ‘Expulsion Law’ poses grave danger to basic democratic rights,” 20 July 2016: <https://www.adalah.org/en/content/view/8866>; Adalah, “MK Jabareen, Adalah, ACRI petition Israeli Supreme Court against Expulsion of Members of Knesset Law,” 2 January 2017: <https://www.adalah.org/en/content/view/8987>; HCJ 10214/16, *MK Yusef Jabareen, et al. v. The Knesset* (case pending).

Israeli Jewish majority in the Knesset to oust elected Arab MKs and political lists on the basis of purely political/ideological considerations, despite the clear conflict of interest entailed in MKs voting to unseat their political rivals. In the case of a criminal offense, standing MKs can already be expelled from the Knesset for a conviction with moral turpitude under existing provisions of the Basic Law: The Knesset and the law is therefore superfluous and not fit for this purpose. MK Yousef Jabareen, Adalah and ACRI are challenging the constitutionality of this law before the Israeli Supreme Court. A decision in the case is expected in 2018.

The Basic Law: The Knesset – Expansion of Grounds for Disqualifying Candidates from Knesset Elections:⁵¹ Enacted by the Knesset on 14 March 2017, this law amends Article 7A of the Basic Law to expand the grounds on which political parties and individual candidates can be disqualified from elections to the Knesset to include not only their goals and actions, but also their statements. Under the law, parties and individual candidates can be disqualified if their goals/actions – explicitly or implicitly – negate the existence of the State of Israel as a “Jewish and democratic state”; or incite to racism; or support armed struggle by a hostile state or terrorist organization against the State of Israel. The amendment makes it easier to disqualify candidates and parties from the Knesset by including statements among the accepted grounds, which are by their nature more liable to overly-broad interpretation.

In addition to this legislation, various policies have been put in place to restrict the legitimate political activity of Arab MKs. A recent example is a **blanket ban on visits by MKs to Palestinian prisoners incarcerated by Israel under the designation of “security prisoners”** imposed by the Israel Prison Service (IPS) and a Knesset Committee in December 2016. Israel is currently holding around 6,500 Palestinians in prisons and detention centers. Critically, the blanket ban relates to the identity of the prisoner rather than the right to enter prisons, since the overwhelming majority of “prisoners classified by Israel as “security prisoners” are Palestinians. The decision of the IPS to prevent MKs from entering prisons causes direct harm to parliamentary oversight of prisoners’ conditions and constitutes arbitrary and illegal government infringement of parliamentary activities.⁵² Adalah filed a petition to the SCT on 24 May 2017 on behalf of Arab MK Yousef Jabareen (Joint List) to demand an end to the ban.⁵³ The petition was filed in the wake of a hunger strike begun on 17 April 2017 by around 1,500 Palestinian prisoners to protest the conditions of their detention in Israeli prisons and to demand improvements. The petitioners also demanded that MK Jabareen be permitted to meet immediately with Palestinian prisoner and hunger strike leader Marwan Barghouti. The ability of MKs to access prisoners as part of their legitimate political activity was particularly important given reports and complaints of violations of prisoners’ rights violations during the hunger strike, which necessitate parliamentary supervision, among other forms of oversight.

10. The discriminatory revocation of Palestinians’ citizenship and residency status by Israel (ICCPR Articles 2, 12, 14, 17, 23, 26, 27)

Revocation of the citizenship of Palestinian citizens of Israel

⁵¹ For the text of the law in Hebrew see: http://fs.knesset.gov.il//20/law/20_lsr_347851.pdf

⁵² Adalah, “Adalah, MK Jabareen petition Israeli Supreme Court to allow MKs to visit Palestinian prisoners on hunger strike,” 25 May 2017: <https://www.adalah.org/en/content/view/9117>

⁵³ HCJ 4252/17, *MK Yousef Jabareen v. The Knesset, et al.* (case pending).

Adalah is gravely concerned by recent steps taken by Israel to revoke the citizenship of Palestinian citizens of the state. Adalah fears that Palestinians may face revocation of citizenship much like Palestinians in East Jerusalem face revocation of residency status. This new revocation policy may pose the most serious threat to the Palestinian community since the military regime of 1948-1966. It sends a threatening and degrading message to Palestinian citizens that their citizenship is conditional and their status is second-class.

For the first time ever, an Israeli court rules to strip citizenship from a Palestinian citizen of Israel: The Haifa District Court ruled in August 2017 to revoke the citizenship of Alaa Zayoud, a Palestinian citizen of Israel who was sentenced to 25 years in prison after being convicted of attempted murder, leaving him stateless. This case marks the first time that an Israeli court has ruled to revoke an individual's citizenship. Adalah, together with ACRI, have appealed this decision to the Israeli Supreme Court (SCT).⁵⁴ The human rights organizations (HROs) asked the SCT to reject the Interior Minister's request to revoke Zayoud's citizenship due to "breach of loyalty" and to cancel the 2008 amendment to the Citizenship Law on which it is based. Adalah and ACRI argue that the new law is being applied solely to Palestinian citizens in a discriminatory manner; that there is no need for an additional punishment beyond that imposed by the criminal law; that "breach of loyalty" is too vague to stand as a justification for revoking an individual's citizenship; and that the law violates international law since it stands to leave some citizens stateless. On 26 October 2017, the SCT issued a temporary injunction delaying the revocation of Zayoud's citizenship pending a decision on the appeal.

The arbitrary revocation of citizenship from thousands of Bedouin citizens of Israel: Adalah also wishes to draw the Committee's urgent attention to the State of Israel's draconian practice of the arbitrary revocation of citizenship from Arab Bedouin citizens of Israel, which dates back to at least 2010, and which as of the present writing is estimated to affect at least 2,600 Bedouin citizens living in the Naqab (Negev).⁵⁵ Under this practice, a person's citizenship can be immediately cancelled if a clerk in the Interior Ministry, when approached by an individual who is requesting regular services such as renewing a passport or registering a change of address, finds administrative irregularities in the registration of the individual or of their parents. The individual's citizenship status is then announced as invalid and downgraded to permanent residency, a move that effectively leaves them stateless.

Aimed exclusively at Bedouin citizens, the policy violates not only provisions of the ICCPR, but also articles 15(1) and 15(2) of the UDHR protecting the right to a nationality and the right not to be arbitrarily deprived of one's nationality, as well as Israel's own Citizenship Law (1952), which prohibits revocation of citizenship as the result of errors (revocation being limited to cases of falsification, and even then under limited circumstances).⁵⁶ Further, no Israeli law allows the Interior Ministry to revoke an individual's citizenship due to an error made by the state. This policy has grave consequences for those individuals, men and women, whose citizenship has been revoked, as well as for their families.

⁵⁴ SCT Appeal 8277/17, *Zayoud v. The Minister of Interior* (case pending). Next hearing to be held on 11 June 2018.

⁵⁵ During the course of correspondence between Arab Member of Knesset Aida Touma-Suleiman, the Chairperson of the Knesset's Committee on the Status of Women and Gender Equality, and the Interior Ministry, the ministry appeared to confirm the existence of this policy and stated that it could affect up to 2,600 Bedouin citizens. Correspondence on file with Adalah.

⁵⁶ Adalah, "Israel illegally revoking citizenship from thousands of Bedouin citizens, leaving them stateless," 18 September 2017: <https://www.adalah.org/en/content/view/9238>

Revocation of the residency status of Palestinians in East Jerusalem

From the start of Israel's occupation of East Jerusalem in June 1967 to the end of 2016, Israel revoked the East Jerusalem residency status of at least 14,595 Palestinians.⁵⁷ Many of these residency revocations have been carried out after Palestinians have failed to prove that their "center of life" is in East Jerusalem, based on the strict parameters imposed by the Israeli Interior Ministry. Others, primarily persons are suspected of attacking Israeli citizens, have had their residency status revoked on spurious grounds of "breach of loyalty". Revocations on this basis are tantamount to the collective punishment and forcible transfer of Palestinians from Jerusalem, who are a protected population living under Israel's belligerent occupation, in a clear violation of international human rights and humanitarian law.

Residency revocations for "breach of loyalty": In September 2017, the Israeli Supreme Court (SCT) delivered a precedent-setting judgment that the Interior Minister had no legal authority to revoke the East Jerusalem permanent residency status of four Palestinian parliamentarians elected to the Palestinian Legislative Council (PLC) on the list of the Change and Reform Movement. The Israeli Interior Minister revoked their residency status in 2006 for alleged "breach of loyalty" for sitting in a "foreign parliament" and allegedly being members of Hamas, a terror organization. These charges are illegitimate since Israel has no right as an occupying power to demand that members of the occupied population should demonstrate loyalty to it. The four men were deported with their families to the West Bank city of Ramallah. After 11 years of litigation on the case,⁵⁸ the SCT ruled that the Interior Minister had no legal authority to revoke their residency. Some SCT justices additionally referred to the special status of Jerusalem residents as "indigenous inhabitants".

However, the Supreme Court's decision allowed the interior minister's revocation of the four parliamentarians' residency to remain valid for six months despite its illegality, upon which time their residency status would be renewed. However, during this six-month period, the Knesset was allowed to amend the law to permit the revocation of residency for "breach of loyalty." The Knesset then enacted a new law on 7 March 2018 to authorize the Interior Minister to revoke to revoke the permanent residency status of any Palestinian from East Jerusalem whom he suspects of "breach of loyalty" to Israel.⁵⁹ The law egregiously violates several rights of Palestinians from East Jerusalem as protected by the Convention, as well as numerous provisions of international humanitarian law. Since East Jerusalem is occupied territory and its Palestinian residents are a protected population, Israel has no authority to impose an obligation of loyalty to itself on them, let alone revoke their permanent residency status for such a ground, which essentially results in their expulsion from the city of their birth.

⁵⁷ Data obtained by HaMoked: Center for the Defence of the Individual. See HaMoked, "Israel continues its 'quiet deportation' policy," 6 April 2017: <http://www.hamoked.org/Document.aspx?dID=Updates1864>

⁵⁸ Adalah represented the four parliamentarians via an *amicus curiae* legal opinion submitted together with ACRI in May 2007, as part of case H.C. 7803/06, *Khalid Abu Arafah et al. v. Minister of Interior*.

⁵⁹ An unofficial translation of the law to English is available at: http://www.hamoked.org/files/2018/1162702_eng.pdf

ANNEX

Record of letters and cases submitted by Adalah and Al Mezan to the Israeli authorities regarding the 2018 Gaza protest demonstrations

Data collected by Al Mezan Centre for Human Rights shows that during the first mass protests on 30 March 2018 and 6 April 2018, Israeli military forces fired live ammunition from snipers, used plastic coated steel bullets, and launched tear gas grenades from drones. The Israeli military has killed 25 Palestinian protesters, including three children and one journalist, and upwards of 1,990 have been wounded, including 342 minors and 76 women. Of those injured, at least 1,350 were shot with live ammunition and around 40 are considered to be in serious or critical condition.

The use of lethal and other excessive force against demonstrators

On 29 March 2018, following reports that the Israeli military had already used live ammunition against Palestinians in Gaza as well as made threatening statements regarding the intended use of live fire against participants in the Great March of Return protest, Adalah and Al Mezan submitted an urgent letter to the Israeli Attorney General (AG) and Military Advocate General (MAG).⁶⁰

In the letter, entitled “The Use of Lethal Force against Protesters in Gaza,” Adalah and Al Mezan warned that the use of live ammunition and snipers as a means to disperse protests was illegal, emphasizing the right to life as protected under Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the Universal Declaration of Human Rights.

The international human rights law (IHRL) framework requires that force is used proportionately, and that lethal force is used only as a last resort in meeting an imminent threat of death or serious injury. Using lethal force against protestors who do not pose an imminent threat to life is a serious violation of the fundamental right to life. The Israeli army’s announcements regarding the anticipated use of live fire against protestors are an ***admission of deliberate intent*** to violate international law.

The letter further highlighted the findings of the Israeli Or Commission of Inquiry, which investigated the deaths of 13 Palestinian citizens of Israel who were killed by police during the October 2000 protests in Israel. The Commission wrote clearly in its conclusions that live ammunition and snipers could not be used as a means to disperse protests. The letter further issued a demand that the army act refrain from using sniper fire against protestors or for the purposes of crowd dispersion, and live ammunition.

On 5 April 2018, in the run-up to the expected Friday 6 April protests, Adalah and Al Mezan sent a letter to the Israeli AG and Chief MAG reiterating our warning that the use of live ammunition against unarmed demonstrators is a violation of international human rights law and Israeli law, and that its continued use would inevitably result in an increased number of casualties.⁶¹ Adalah and Al Mezan again demanded that the Israeli military refrain from using live ammunition of any type against protestors or

⁶⁰ Adalah and Al Mezan, “Adalah, Al Mezan: Israeli military sniper fire on unarmed Palestinian civilian protesters is illegal,” 30 March 2018: <https://www.adalah.org/en/content/view/9446>

⁶¹ Adalah and Al Mezan, “Adalah and Al Mezan: Israeli snipers documented ‘hunting’ Palestinian protesters in Gaza,” 5 April 2018.

for crowd dispersal, and that the AG and Chief MAG clearly and explicitly order military to refrain from use of such weapons, including the use of snipers.

Adalah and Al Mezan sent the letter as Israeli military spokespeople resumed their threats, emphasizing that there would be no change in soldiers' directives or open-fire regulations, that numerous snipers would again be deployed along the length of the Gaza border, and that they would continue to use live ammunition against protesters.

Threatening Facebook posts by the Israeli military

Adalah and Al Mezan sent a letter on 29 March 2018 regarding the threatening posts made to the Palestinian protected population by the Israeli military via social media. Adalah and Al Mezan asserted in the letter that the messages themselves constitute a violation of the prohibition on threatening protected populations with violence, under Article 51 (2) of the Second Additional Protocol to the Geneva Conventions, and Article 31 of the Fourth Geneva Convention. The threats also infringed on Palestinians' right to dignity as protected by the Fourth Geneva Convention.⁶²

Despite repeated claims by Israel that Gaza is no longer occupied territory, the organizations join the international community in asserting the continued applicability of IHL given Israel's total control over Gaza's airspace, territorial waters, and borders with Israel. The organizations therefore relied on IHL, in addition to IHRL and international criminal law, in their legal letters.

Search and rescue, demand to release the bodies

On 31 March 2018, Adalah and Al Mezan sent an urgent letter to the Israeli AG, Chief MAG, and the Commander of Israel's Coordination of Government Activities in the Territories (COGAT), demanding that Palestinian Search and Rescue teams in Gaza be allowed to immediately enter the Israel-declared "buffer zone" that extends 300 meters into Gaza to locate and extricate Mohammed Mhareb Mohammed Al-Arabiye and Musab Zuheir Anis Al-Saloul.⁶³ It is believed that the two persons were armed when they were killed.

The organizations asserted that by preventing the rescue and/or extrication of wounded or dead, the Israeli military was violating in particular IHL and Israeli laws. Articles 15 and 17 of the Fourth Geneva Convention (GC) concern the treatment and evacuation of wounded and the extrication of casualties for burial. Article 15 states that, "At all times, and particularly after an engagement, Parties to the conflict shall, without delay, take all possible measures to search for and collect the wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled."

The GC mandate the protection of wounded and the obligation to allow them medical treatment, to evacuate casualties, and the protection of ambulances, hospitals, and medical teams. Likewise, these laws guarantee the free movement of medical search and rescue teams to allow them to promptly locate missing individuals in order to increase their chances of survival. Importantly, the Israeli Supreme Court adopted these specific principles in its 2002 judgment,⁶⁴ ruling that Israeli forces are obliged to conform to humanitarian rules concerning treatment of wounded, sick, and the bodies of casualties.

⁶² Ibid.

⁶³ Adalah and Al Mezan, "URGENT: Adalah, Al Mezan call on Israel to let Gaza search and rescue teams enter border 'buffer zone' immediately to evacuate 2 Palestinians," 31 March 2018: <https://www.adalah.org/en/content/view/9447>

⁶⁴ HCJ 2936/02, *Physicians for Human Rights - Israel v. IDF Commander in the WB* (decision delivered 8 April 2002).

Following reports that the Israeli military was holding the bodies of the two Palestinian men shot in the “buffer zone”, Adalah and Al Mezan sent an urgent letter the following day, 1 April 2018, to the Israeli AG and the MAG demanding the release of the bodies.⁶⁵ The organizations emphasized that the policy of withholding bodies as bargaining chips for negotiation purposes is illegal – under IHL and IHRL as well as Israeli Supreme Court precedent; that it exceeds the authorities’ powers; and that the Emergency Defense Regulations also do not grant such authority. The organizations further argued that the state’s conduct constitutes a flagrant violation of the right to dignity of the deceased, as well as that of their families, since the right of every person to a prompt, dignified, and proper burial is an integral part of his right to human dignity and, because human dignity extends to a person also after his or her death.

Demand for a criminal investigation

On 31 March 2018, Al Mezan and Adalah sent a letter to the Israeli AG and Chief MAG demanding they order an immediate criminal investigation into the Israeli military killings of Palestinians during Land Day protests in the Gaza Strip.⁶⁶ Israeli Defense Minister Lieberman, in public statements, has already rejected the idea of such an investigation.⁶⁷

Urgent medical treatment for the wounded outside Gaza

On 8 April 2018, Adalah and Al Mezan filed a petition to the Israeli Supreme Court demanding Israel allow two young Palestinian men, Yousef Karnaz, aged 20, and Mohammad Al-'Ajouri, aged 17, unarmed protestors who were seriously wounded by Israeli military gunfire during demonstrations in Gaza on 30 March 2018 to travel to Ramallah in the occupied West Bank for urgent medical care.⁶⁸ Both young men, currently hospitalized at Shifa Hospital in Gaza, are in critical condition and in immediate danger of losing their legs as a result of their gunshot wounds. Shifa hospital does not have the required medical equipment to save their legs. The Israeli military's Coordinator of Government Activities in the Territories (COGAT) ignored requests for emergency travel permits for four days, and then refused the patients' requests. Israel's refusal to allow these seriously wounded young men access to urgent medical care constitutes a violation of their right to life and health under IHL, IHRL and Israeli law. The Supreme Court ordered the state to respond on 10 April.

Adalah and Al Mezan previously sent an urgent letter on 1 April 2018 to the AG, MAG and COGAT demanding that they act to allow seriously wounded Gaza residents access to emergency medical care in Israel or passage to the West Bank/East Jerusalem; and establish a special emergency procedure designed to facilitate immediate entry for wounded Gazans to access urgent medical care in Israel, the occupied West Bank, or beyond.⁶⁹

⁶⁵ Adalah and Al Mezan, “Adalah, Al Mezan demand Israel return bodies of two dead Gaza men taken by Israeli military,” 2 April 2018: <https://www.adalah.org/en/content/view/9453>

⁶⁶ Adalah and Al Mezan, “Adalah, Al Mezan demand immediate criminal investigation of Israeli killings in Gaza on Land Day” 31 March 2018: <https://www.adalah.org/en/content/view/9449>

⁶⁷ Tovah Lazaroff, “Lieberman Rejects Calls for Investigation into Gaza Deaths,” *Jerusalem Post*, 2 April 2018: <http://www.jpost.com/Arab-Israeli-Conflict/Lieberman-rejects-calls-for-investigation-into-Gaza-deaths-547677>

⁶⁸ Adalah and Al Mezan, "Israel won't let two Gazan youth seriously wounded by Israeli gunfire travel to Ramallah for urgent medical care," 9 April 2018: <https://www.adalah.org/en/content/view/9458>

⁶⁹ Ibid.