The State of Human Rights in Israel

July 2003 – June 2004

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في اسرائيل
The Association for Civil Rights in Israel

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Introduction

The Association for Civil Rights in Israel (ACRI) publishes an annual report documenting the latest developments in the field of human rights in Israel and the occupied territories. We try to direct attention to the most pressing issues from the viewpoint of their immediate impact on human rights. Naturally there are issues that reappear year after year, either because of the serious nature of the issue, or because no other organization addresses them, but due to limitations of scope, there are issues that are not mentioned even though they have yet to be resolved. The review that is herein set forth is based on a variety of information sources – government publications, reports issued by non-governmental organizations, journalistic articles, Knesset debates, legal cases and other sources.

In certain sections of this report a concerning trend becomes apparent of a deliberate disregard for the law on the part of state agencies, and the mistaken perception, according to which, the state treasury has the authority to establish priorities that directly oppose decisions reached democratically by the Knesset (Israel's parliament). This is reflected in the level of the enforcement of legislation to protect the rights of workers, the integration of children with disabilities into mainstream educational frameworks, and in leaving prisoners and detainees to sleep on the floor of prison facilities.

We would like to draw special attention to the continually growing infringement of the rights of workers and work seekers in Israel. In recent years the chant of "get a job" has become the national anthem that presents the unemployed in Israel as lazy parasites. As the report will show, it is not only that the number of positions that has dwindled to almost none, but also that the balance of power in the employment market is used to violate the rights of employees and work candidates by forcing them to accept the rights infringements out of fear of losing their source of livelihood. The government sides with the employers and leaves the working public exposed to exploitation and discrimination.

The state of human rights in the territories has never been worse as thousands of human beings are trapped in living space that is shrinking all the time. Freedom of movement has already become an abstract concept, like the right to survival and personal security that cannot be taken for granted, to put it mildly. The separation barrier has been constructed along a route that was established according to considerations other than security considerations, and has caused severe human rights violations.

The discrimination against the minority population of Arab citizens of Israel continues, and expressions of discrimination have only intensified over the last year. The Ministry of the Interior places countless and exhaustive bureaucratic obstacles in the path of non-Jews attempting to obtain legal status in Israel, although they are legally entitled to such status. The government is also actively enforcing a policy of deportation that is accompanied by a campaign of scare tactics and incitement against migrant workers.

These and other issues will be covered by the following report.

The Economic Arrangements Bill – A Violation of Human Rights Enacted by a Faulty Legislative Process

The "Economic Arrangements Bill" was enacted for the first time in 1985 as an emergency economic measure to stabilize the economy, and was opposed by the incumbent Minister of Finance and Attorney General. The Economic Arrangements Bill has since been converted into a tool that allows the government to push through laws, many of which stray from their stated budgetary purposes, with no serious review by the Knesset. Over the years, the legislative procedure utilized to enact the Economic Arrangements Bill has become a "legislative monster". This is demonstrated by the fact that the original Economic Arrangements Bill was spread over 15 pages and included 103 clauses and sub-clauses, the latest bill consists of 82 pages and 1,037 clauses and sub-clauses.

The economic arrangements bills have turned into the principal legislative mechanism for instituting sweeping economic changes, and the subsequent violations of human rights in Israel. These changes are instituted without any serious review by the Knesset committees possessing the relevant expertise. In a limited number of cases, the Economics Arrangements Bill has resulted in the cancellation, or modification, of existing legislation with the flick of a hand, of legislation that was initially enacted through a lengthy and laborious legislative process, and in more that one instance the amendments deviated from the stated budgetary aims for that year and continued to impact even after that. In the last few years, the law has frozen and annulled, among other matters, public housing rights; child allowance stipends, marital support payments, senior citizen allowances and pension rights have been frozen or reduced; integrating temporary workers into the workplace as regular employees has been rejected; state home purchase grants in Jerusalem have been frozen; the "Wisconsin Plan", which brings with it far-reaching changes in the job market and social safety net, has been enshrined in law; the postal service has been changed in a manner that essentially paves the way for privatization of this area; a committee for national infrastructure has been established that in effect bypasses existing planning commissions established by law, and enables the approval of national infrastructure projects through an expedited process without providing sufficient time for the preparation of a report or an expert environmental opinion, or the submission of an appeal or formal opposition by the public.

The result of the legislative process of the Economic Arrangements Bill is that the Knesset relinquishes its discretionary power, and places it, in effect, in the hands of the executing authority, namely: the government that submitted the legislative proposal, and the Ministry of Finance that drafted it. And by so doing, the Knesset violates the principle of separation of powers that lies at the core of a democratic regime.

The Association for Civil Rights in Israel (hereinafter "ACRI") submitted a petition to the Supreme Court in March 2004 to demand the cancellation of the 2004 Economic

Arrangements Bill. The Supreme Court rejected the petition in May 2004 but has yet to publish the reasons for its decision.

Workers Rights

As a result of the balance of power in the workforce, which clearly favors employers, workers are afraid to act against infringements of their rights and to submit claims against their employers. The government presents the unemployed in Israel as lazy parasites. Undoubtedly there are those among the unemployed, like in every other country, that exploit public resources, but the almost non-existent job opportunities and the presentation of people as being unemployed by choice, could be interpreted as incitement against an entire community. Furthermore, the balance of power in the workforce is exploited to infringe workers' rights (in addition to that set forth below, please read the section of the report on the right to privacy, which relates to the invasion of workers' privacy).

ACRI receives daily complaints from workers detailing rights violations against them. The following are a few examples that reflect the situation described above: a work applicant who was required (in violation of the law) to make his army profile public; the individual who has worked in the same place for three years and is still not entitled to social benefits such as vacation time or stipend, and is not paid overtime; a female worker in the service industry who is not paid overtime; employers who prohibit the speaking of Arabic in the workplace; new immigrants who worked for an employment contractor and did not receive a salary slip; the employer who dismissed his Arab employees simply because they were Arabs; female employees who were dismissed because they were pregnant; a skilled employee who complained of financial irregularities and was dismissed because of claimed staff cutbacks, but later realized that somebody with less skill had been hired to replace him; and the professional who was dismissed after several years in the same workplace on the basis of allegations that his work was unsatisfactory, allegations made a short time after he announced his intention to adopt a child.

Personnel Agencies

According to official estimates, 5.2% of the total employees in Israel, approximately 100,000 people, among them 65,000 women, are employed by personnel agencies. According to unofficial estimates, the number of workers that are hired through personnel agencies is double the official data. Furthermore, a study that was published in February by the Israel Women's Network reveals that the salary of temporary workers is 60% that of the average salary of their colleagues hired as salaried employees. The study also shows that approximately 50% of the personnel workers earn only minimum wage.

The personnel agencies offer employers skilled and unskilled workers. Employment contractors offer their services in different fields. In both instances the result is that workers, whose work is for the benefit of a specific entity, are not employed by that

entity directly but by the employment agency or contractor. This form of employment began in the 1980's and was designed to provide employers with temporary staff for specific projects, seasonal work, etc. However, over the years the practice of employing people through personnel agencies and contractors has to an enormous extent resulted in salary reductions and the reducing the cost of employees in the job market.

One of the largest employers of cheap labor provided by personnel agencies is the state. According to the previously stated study, 35,000 personnel agency workers are employed in the civil service and are entitled to conditions of employment and salary that are inferior to those of their salaried colleagues employed in the same place. When the term "increased efficiency" in the public sector is used, what is often meant is the privatization of work that was previously carried out by permanent employees of a government office or local authority, and its transfer to a private company that employs workers that are not organized, who work for minimum wage and enjoy few social benefits.

The employment of an individual for many years with benefits inferior to their co-workers, undermines their dignity as a human being and an employee. In a large number of workplaces, and even in government offices, a situation is created in which permanent and "temporary" workers work side by side, while the former enjoys job security and superior conditions to the others - whose employment is "temporary", even though it sometimes lasts for years - with no rights. Here, for example, is the story of a female employee who will be identified as "Ayala", who appealed to the non-governmental workers' organization "Kav La'Oved" in May 2004:[1]

"Up until a week ago, when I could no longer stand it and had to resign, I worked as a temporary worker in Bank Hapoalim. I am an excellent employee and I am even full of motivation, which, it appears, is totally useless for temporary workers. In my interview for ORS before I began working, I was promised things that were never fulfilled….I was promised that if the bank was happy with me, I would be hired as an employee by the bank. Bank Hapoalim does not do that…. In the branch that I was working in the manager decided that he was not going to "reveal" the work schedule to me…..I would finish my work and go to him to find out if I should come the next day to the bank or not! It was like this day after day, and I had no way of planning my week or knowing whether I was working or not….. I had no rights, I also had no right to study or do anything other than work as a receptionist. I was not invited to any work events, trips, or any meetings with bank employees, despite the fact that many of them had started working after me. When a trip was being organized, for instance, they talked over me as if I was air…….. The salary increase that I was promised I would get after a few months turned out to be an extra half-shekel (approximately 12 cents) per hour only after working over a year……

Last week a new bank employee arrived at the branch….They informed me that the personnel workers' hours had been shortened as a result…..After more than a year at the

[1] The above is a summary, for the full story refer to the "Kav La'Oved" Internet site: www.kavlaoved.org.il.

branch, from one day to the next I was kicked out…..I am not even entitled to unemployment benefits in the future because I have worked less than 1800 hours…"

In order to address the discrimination, the Knesset amended the Employment of Workers by Personnel Contractors Law in 2000, and established that personnel agency workers would be formally employed by the workplace within nine months, and that even from the first day they would be entitled to the same conditions as the "regular" workers. The implementation of the obligation to hire workers permanently was deferred again and again by the Economic Arrangements Bill, and even now has not been implemented. The implementation of the section relating to equal conditions has been done in a problematic and sometimes discriminatory manner. Recently, a new collective agreement was signed in the personnel agency branch that completely replaces the section relating to equal working conditions, and establishes a framework for the employment conditions of the workers of this branch. The agreement improves the situation to a certain extent by enshrining the rights of the workers, however the agreement still recognizes the different and "special" status of the personnel agency workers.

Wage Discrimination

According to statistics published by the Israeli Central Bureau of Statistics, the income per work hour of a working woman in 2002 was 36.7 New Israel Shekels (NIS), whereas a man earned an average of 23% more – 45.3 NIS per hour. This data indicates that the gap between men and women's salaries is slowly decreasing. In 1985, the income per hour for a man was 36% more than that of a woman. Women represent 48% of the salaried workers in the workforce. According to the salary scale of hourly wages, women constitute 56% of the bottom ten percent and only 34% of the top ten percent.

Against the backdrop of this data, it is important to note the precedent setting ruling issued this year by the Beersheba District Labor Court. The court ordered a chain of stores specializing in electronics and electronic equipment to compensate an outstanding female worker through the payment of tens of thousands of shekels for the discriminatory salary she received in comparison to her male colleagues with the same level of seniority and expertise. The ruling was issued in response to a lawsuit submitted by ACRI on behalf of the female employee.

The Status of the Labor Courts

The labor courts provide a special contribution in the triangular configuration of the government, workers' organizations, and employers' organizations. This contribution is based on the specialized professional training of the judges in labor law, on their in-depth understanding of this field and of the unique procedures of the labor courts, which facilitates access for the weak working population, who do not possess extensive economic means or legal knowledge. In the last few years, the labor courts have taken a

number of very effective steps on behalf of the weakest working population in Israel – personnel agency workers and migrant workers.

The piercing statements made by the labor courts against the exploitative employment conditions and employment practices that violate the rights of the weakest population sector in the workforce, have aroused opposition among employers' organizations, who have applied great pressure on the government to reassess the status of the labor courts. As a result of this pressure the Minster of Justice, Mr. Yosef Lapid, appointed a committee to investigate the status of the labor courts, which is headed by former Supreme Court Justice Yitzhak Zamir. In today's economic reality of workers' rights infringements and the massive cuts in pensions – the abrogation of a specialized system of labor courts is liable to cause additional rights violations among the weaker working population.

The Flawed Implementation of Laws Protecting Workers' Rights

Even in the midst of economic crisis there is no justification for turning a blind eye to the violations of law by employers, and although it is known that the practice of violating labor laws is widespread, the state rarely enforces legal constraints on employers. At the initiative of the Ministry of Finance, a provision of the Economic Arrangements Law of 2004 was changed, which had prohibited the government from entering into a contract with any company that had violated the Minimum Wage Law for one-year following the conviction. Through removing this prohibition, the state provides dangerous incentive for the oppression of workers and the violation of their right to receive minimum wage.

The State Comptroller's Report, which was published in May, 2004, sets forth the findings of an investigation of the subject of the enforcement of labor laws (the investigation related to the years 2001-2003) and raises a series of problems in the operation of the bodies that are involved in the enforcement of labor laws for the Ministry of Industry and Trade, and particularly in the branch responsible for the enforcement of labor laws. Among other things, the State Comptroller determined the following: that the enforcement branch did not make efficient and advantageous use of the minimal resources that were at their disposal for the enforcement of the Minimum Wage Law, such that in practice the enforcement results were particularly weak; that only 2% of the employees investigated by the branch were employees whose right to minimum wage was violated; and that the handling of the investigations lasted months and even years, a fact that severely impinged on efficient enforcement. The State Comptroller's Report also raised the issue that the enforcement branch did not adopt the majority of the recommendations of the Public Commission to Examine Minimum Wage in Israel from the year 2000, as follows: the subject of the enforcement of the minimum wage did not receive the focus that it merited in accordance with the nature of the phenomenon; the enforcement branch did not usually mobilize focused means of enforcement in employment areas known for their violations of the law; the branch was in conflict with voluntary organizations; and the branch did not publish quarterly reports for the public,

and did not even submit these reports to the Labor and Welfare Committee of the Knesset.

The state invests a large amount of resources in capturing and deporting migrant workers, but at the same time does nothing to ensure the basic rights of these workers, despite the 2002 Rechlevsky Report that determined (similarly to many other expert opinions) that dealing with employers who break the law was much more economical and effective than the policy of deportation. The State Comptroller's Report, which was published in May 2004, determined that the average duration of the enforcement mechanism used on an employer employing migrant workers who has violated the law – the time from the day of the visit of the inspector until the imposition of an administrative fine – is 533 days (close to one and a half years). Other instances were found where over three years passed between the visit of the inspector at the workplace and the imposition of a fine. The experience of human rights organizations has shown that complaints that were submitted against companies who routinely violate the rights of migrant workers in their employ did not lead to any action being taken against them. The companies were not forced to pay any significant fines, and they continued to receive permits to employ migrant workers.

The Right to Strike

This year again we witnessed legislative proposals and declarations by senior figures in the job market of their intention to undermine the right of workers to strike. The ministerial legislative committee recently approved a draft law to severely limit the right to strike. According to the proposed law, workers' organizations will no longer be authorized to decide to strike unless they have the individual support of the majority of workers. Likewise, the conditions required before declaring a strike have been severely tightened. As unemployment grows, and the number of positions available decreases, the dependence of workers on their employers grows, and the difficulty of protecting their rights increases. The protection of the right to strike is vital to preventing even more serious infringement of the workers' salaries and working conditions. The right to strike should be accompanied by other rights such as the right of association, and the right to elect employee representatives, etc. The limitation of the right to strike, the weapon of last resort in the hands of the workers, is likely to intensify their future exploitation.

Human Rights in the Occupied Territories

The reality of the lives of Palestinian residents of the occupied territories over the last year is that no basic right is guaranteed: not the right to life, and not the right to freedom of movement, not the right to work and not the right to a dignified existence, not the right to education, not the right to medical care and not to protect your family. As will be detailed below, the scope and severity of human rights violations in the occupied territories has reached an unprecedented level. This report will cover only some of the violations that are a daily occurrence in the territories.[2]

IDF operations in Rafah during the month of May 2004 were accompanied by blatant human rights violations. IDF soldiers opened fire indiscriminately, prevented the evacuation of the injured, and killed dozens of people, some of whom were armed, but many more were innocent men, women and children. A tank shell that was shot and exploded in the midst of a demonstration of hundreds of people in Rafah killed 8 (half of whom were children) and injured dozens. Dozens of houses were destroyed by the army to expand a route for vehicles, and hundreds of people were driven out of their homes and lost the possessions they had. Human rights organizations – Physicians for Human Rights in Israel, ACRI, HaMoked: Center for the Defense of the Individual and B'Tselem - petitioned the Supreme Court with a series of demands, among them: to permit the evacuation of the injured and corpses; to regularize the passage of medical equipment between Rafah and the hospitals in its environs; to renew the supply of electricity and water to the neighborhood of Tel a-Sultan and ensure a regular supply of food and medicine to the neighborhood residents; to investigate the incident in which a gathering of civilians was fired on and several residents were killed, and to prohibit opening fire or firing shells on civilian gatherings even if there are armed individuals among them who are not placing anyone's life in immediate danger. The Supreme Court issued a ruling that these demands be met. An additional demand calling for a delegation of Israeli doctors to be allowed into the area was denied. Through the ruling, the President of the Supreme Court, Chief Justice Aharon Barak, established important norms that obligate the army to guarantee the basic needs of the civilian population during armed conflict.

According to data collected by "B'Tselem", during the twelve-day military incursion into Rafah, 58 Palestinians were killed, including at least 8 minors, and 183 homes were totally destroyed. And according to UNWRA data, 1,309 structures have been destroyed since the beginning of the Intifada (uprising), and 11,000 people rendered homeless.

[2] For additional information on human rights violations in the territories, refer for example to the publications and Internet sites of B'Tselem, Hamoked: Center for Defense of the Individual, and Physicians for Human Rights in Israel.

The Separation Barrier

The living space of Palestinian residents in the territories is decreasing all the time: they cannot enter Israel because of the closure which prohibits residents of the territories from entering Israel; passage between the Gaza Strip and the West Bank is prohibited; and traveling abroad is restricted. Even movement within the territories is extremely limited: villages and towns in the West Bank are surrounded by enclaves, mounds of dirt, and roadblocks that are only partially manned, dozens of roadblocks are situated on the roads in the West Bank and Gaza Strip, acting as focal points for humiliation, abuse and maltreatment. For many villages (especially those in close proximity to Jewish settlements) there is no vehicular access. If an individual manages to leave his/her place of residence – for work, studies, or medical care for instance – their journey will be interrupted again and again by roadblocks. The construction of a separation barrier eroded the situation described above still further as huge sections of territory were converted into enclaves and defined as closed military areas. (See following.)

The governmental decision to build a separation barrier in the western area of the West Bank disregarded international law and human rights. The result is a fatal and unjustifiable blow to the most basic human rights of the Palestinian population. The State of Israel is obligated to protect its residents both within its territory and territory that is under its control, and to ensure their safety, although any method used to reach this goal must not infringe basic human rights, including the right to livelihood, health, movement, education, property ownership, and a minimally dignified existence.

The barrier's route was drafted without any consideration for the right of the Palestinian residents living adjacent to it, and with other considerations unrelated to security concerns. Hundreds of human beings – among them 40,000 residents of the city of Qalqilya – are trapped in enclaves created by the barrier that surrounds whole communities and cuts them off from their surroundings. When the barrier is completed, the number of people expected to be imprisoned in the enclaves could reach 160,000. Dozens of Palestinian communities will be disconnected from their regular health services and their children's schools; and many communities will be cut off from their electricity and water supply.

On the western side of the West Bank, Israel is annexing 16% of the territory for itself. This territory has numerous water sources and fertile agricultural land that supplies a significant amount of agricultural produce from the West Bank, and is an important source of livelihood for the residents of the villages to the east of the barrier. In order to spend time on the western side of the barrier ("the seam zone") – even those whose place of residence is in the seam zone, all of which has been declared a closed military area - a permit is required. The permit system drastically restricts freedom of movement for Palestinians whose daily life revolves around both sides of the barrier, and totally disrupts the lives of the Palestinian civilians bordering the barrier. 47 gates built in the barrier between Salam to Alkane are designed to allow the daily passage of farmers to their lands, students and teachers to their schools, business people and merchants to their

workplace and more. The majority of gates open for at most one hour a day, at inconsistent times, and some of the gates are not in operation at all.

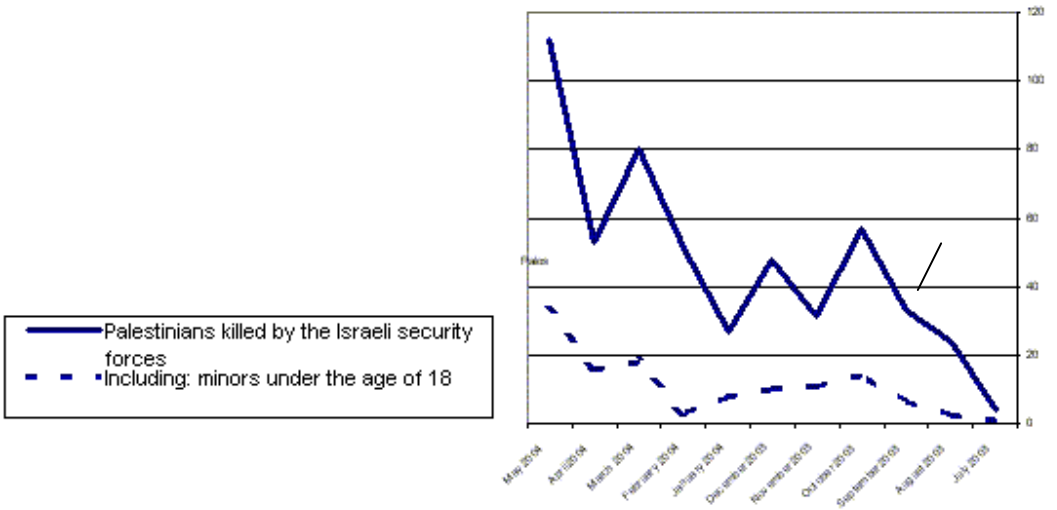
The closure of territory and the permit regime create an untenable reality for thousands of Palestinians. The World Bank report, and UN General Secretary's report, raise a well-based fear that the serious restrictions of movement will force the Palestinians residing in the enclaves or along the route of the barrier to abandon their villages and escape to the east.

Security sources describe the separation barrier as a "temporary" solution, until a permanent political settlement can be reached between Israel and the Palestinian Authority. In light of the "temporary" steps taken in the occupied territories in the past, it would be hard not to see these steps as creating irreversible facts on the ground, and as the annexation by Israel of the territory under military closure. In this context the "seam area' is increasingly taking shape as an area that is being sealed up and adjoined to the State of Israel, while using the separation barrier to cut if off from the rest of the occupied territories.

ACRI, together with other social change organizations, submitted a series of petitions to the Supreme Court that focus on the serious human rights violations that are being caused – and will be caused – by the construction of the separation barrier. Among other things, the petitions touched on the declaration of the "seam zone" as a closed military area and the enforced permit regime that is extremely problematic for the farmers trying to reach their land, to demand the passage through the gates at any time of the day and thus allow the regularized transit of people and merchandise, to stop the construction of the barrier in the villages of Deir Qaddis, Ni'lin, and Budrus, and to shift the route away from the lands of these villages, which causes unjustified damage to the residents' orchards and their livelihood.

The route of the barrier in the Jerusalem area separates East Jerusalem from the suburbs and the neighboring villages, and fragments community life, trade, and cultural activities that bridged both sides of the municipal border (which was determined unilaterally with the annexation of East Jerusalem to Israel). As a result of the dire housing shortage and the building limitations in East Jerusalem, many were forced to move to the suburbs, but continue to hold East Jerusalem identity cards, and they study, work and receive public services and medical treatment, buy their daily necessities and visit family in East Jerusalem. Once the construction of the separation barrier is completed, the residents of these areas will have no access to even minimal services. The barrier surrounds the neighborhood of Sheikh Sa'ad in Jabul Muqaba, for example, and cuts it off both from East Jerusalem and the West Bank, and leaves it with no access to vital public services; the residents can't even bury their dead as the road from the neighborhood to the cemetery has been blocked off.

Lethal Force



Since the beginning of July 2003 until the end of May 2004 the Israeli security forces have killed 520 Palestinians, of them, 322 civilians who took no part in the fighting (source: B'Tselem)

Abuse and Maltreatment by the IDF and Settlers

Recently more and more cases of abuse and maltreatment of Palestinians by Border Patrol police are being uncovered. During an operation to find Palestinians staying illegally in the area in February, Border Patrol police detained 5 Palestinian workers in the middle of the night, confiscated their documents and their wallets, beat two of them and knocked their heads on the wall. They then took them to a neighboring wood close to the town of Beit Jala, and during the journey they hit them vigorously. At the end of May, three Border Police were detained in the area of Jerusalem on suspicion that in April they detained two seventeen year old Palestinians from a small village next to Abu Gosh, took them to a grove next to the village of Nataf, and abused them. The police are suspected of beating the minors with fists and clubs, throwing milk products over them, forcing them to kiss their boots, and chew sand and stones. At the beginning of June, nine border police from the Harish unit were arrested on suspicion of beating Palestinians, attacking them and stealing things from them. The series of events led to the dissolution of a Border Patrol unit in Hebron, and an information campaign initiated by the Border Patrol.

In the last year, the number of reports of deliberate damage to Palestinian property both by IDF soldiers and by settlers has increased. The city of Hebron has a particularly large number of incidents of settlers attacking Palestinian residents. The security services demonstrate a casual approach to enforcing the law on the settler population, and impose serious limitations on the daily life of the city's Palestinian residents, that for some reason is construed as a necessary security requirement to protect the Jewish residents of Hebron. For example: seven Palestinian families live in the Tel Rumedia complex, whose entrance used to be on the side of the road leading to the settlement of Ma'ale Givah. After the settlers built a road between the settlement and the Palestinian houses the IDF prohibited the Palestinians from entering their homes from the main entrance, and fenced it in with barbed wire, cutting some of the homes off from their back yards. In order to reach their homes, the Palestinians now have to take the steep back route and climb over a number of fences along the way.

Two distinct legal systems work simultaneously in the territories, one for the Jewish settlers, and one for the Palestinian residents. Palestinian residents of Tel Rumeida complained to the local police headquarters of serious damage to Palestinian property by Jewish settlers: the destruction of grape vines in the full light of day; a telephone line that was sliced and cut off; a vandalized water pipe; the cutting of a power line; and the connecting slope between the settlers' homes and the Palestinian houses that was turned into a garbage dump. The police did not investigate. An additional complaint that was not addressed related to the behavior of IDF soldiers stationed at an army outpost on the roof of one of the houses five years ago. According to the residents the soldiers "make an inordinate amount of noise, especially in the evening hours. They throw garbage in our yard and urinate on it. Every few weeks, the soldiers come down to the yard late at night and search the house and the yard, they are looking for suspicious people. One of the soldiers came down and threatened the children, telling them to go into the house and not to play in the yard. There was a period when the soldiers shot from the outpost, apparently at mortars, and damaged the walls of the house as a result."

ACRI submitted complaints to the Attorney General about the continuing failure to enforce the law regarding the settlers, and the failure to protect the physical safety and property of the Palestinian residents of Hebron and the area south of Mount Hebron.

The IDF's Investigative Procedure

The failure to open investigations of fatal incidents is likely to be interpreted as a silent endorsement of the killing of innocent civilians. Thousands of Palestinian residents of the occupied territories (most of them innocent civilians) have been killed by IDF soldiers in the last three years. Only one of the cases resulted in the imprisonment of the perpetrator for causing death (and even in this instance the individual was only sentenced to a 6 month jail term). ACRI petitioned the Supreme Court in October 2003, together with B'Tselem, to demand that the Military Judge Advocate General change his policy and order the opening of a military investigation into every incident in which an IDF soldier kills a Palestinian who had not taken any part in the fighting. The court ordered the

military advocates office to make detailed information available of IDF investigations into the deaths of such Palestinians. At the time this report was written, there was no change in the approach of the military prosecutor. The petition is pending.

According to data presented to the Knesset Constitution, Law and Justice Committee by the Military Judge Advocate General (JAG), Major General Menahem Finkelstein, since the beginning of the Intifada, and up until the beginning of 2004, thousands of complaints have been submitted to the IDF of unsuitable behavior by soldiers: 1,650 were addressed, and in 473 cases a military investigation was initiated. However, only 65 cases resulted in an indictment since October 2000: approximately 30 crimes involving property, 20 violent crimes, 18 involving the actions of soldiers at checkpoints and 13 shooting offences. According to the JAG, 40 of the soldiers were convicted and sentence to terms of imprisonment, the most serious of which were terms of 9 and 10 months (for the beating of Palestinians at the Qalandia checkpoint). In 2003, 730 investigations were opened: 202 for violent crimes, 113 property offences, 230 relating to incidents of soldiers opening fire, and the rest for other various offenses. Military investigations were opened in 190 cases in the past year.

Torture During General Security Service Interrogations

According to the Public Committee Against Torture, the use of torture during General Security Service (hereinafter "GSS") interrogations has again become a matter of course. Some of the methods that the Supreme Court outlawed in its ruling of September 1999 have indeed ceased, but the majority of the familiar techniques continue, including: preventing the individual from using the bathroom; tying up detainees in painful positions for extended periods of time; beating; slapping; kicking; cursing; humiliation; threats (primarily threats of a sexual nature) against the detainee or members of his family; extended isolation in a filthy cell, infested by cockroaches with a hole in the ground for fulfilling bodily functions; exposure to the cold by means of an air conditioning unit blowing cold air into the cell; exposure to a naked light that is kept on 24 hours a day; preventing the detainee from washing or changing clothes; and being forced to sleep on a thin mattress with only one blanket. The Public Committee Against Torture in Israel submitted over a hundred complaints of the use of torture during interrogations in the year 2003.

In August 2003, the Haaretz daily newspaper revealed the existence of the a secret detention facility, referred to as Facility 1391, situated in a secret military base in Israel. In response to petitions submitted to the Supreme Court by HaMoked: Center for the Defense of the Individual, and member of Knesset Zahava Gal-On, the state attorney's office claimed that the secret location of the facility does not derogate from the rights of the detainees held therein. According to a statement made by the State Attorney's office, the facility is to be used for interrogations in special circumstances, and people are not usually detained there after their interrogation is completed, except for Sheikh Obeid and Mustafa Dirani who have been held in the facility under administrative detention for

years even after their interrogation was completed, and an additional detainee, Hassin Makded, who has been held in the facility for over a year and a half.

The testimonies that were attached to the petition describe the conditions in the facility as extremely harsh, the walls of the cell are painted black, there is very weak lighting, no toilets, and the detainees are prevented from washing or changing their clothes. According to the statement made by the State Attorney's office, the conditions are similar to other military prisons, and the interrogation methods at the facility no different from those used and authorized in other detention facilities. The detainees are entitled to meet with representatives of the Red Cross and with attorneys, unless a special order has been issued preventing this, in which case they are taken to an alternative venue to meet with their attorneys or the Red Cross.

The basic principles of any democratic society – transparency and public oversight of state authorities – are vital in the event that an individual's freedom is taken away. Therefore, the existence of a secret detention facility raises two potential dangers: firstly, of secret arrests and individual "disappearances", and secondly, the misuse of power, maltreatment, violence, and torture.

Administrative Detention

Israeli law and the law in the occupied territories permit the detention of an individual on the basis of an administrative detention order for a period of 6 months. The order can be extended again and again, each time for an additional 6 months, thus an individual is liable to be imprisoned for years with no right to legal due process.

Administrative detention is based on classified evidence that the detainee cannot contest. With regard to Palestinian residents of the occupied territories: the law permits the army officer in charge to sign a detention order. The detainee is bought before a judicial tribunal within 8 days. Regarding Israelis (it should be noted: that Israeli citizens are rarely held under administrative detention): the Minister of Defense is authorized to order detention and the President of the District Court is required to authorize administrative detention that is ordered under Israeli law within 48 hours of the arrest. In Israel and the Gaza Strip, detainees are subject to periodic assessments, every three months, but in the case of West Bank detainees, there is no periodic automatic review.

ACRI opposes administrative detention. If there is any substantive evidence against the detainees it should be presented to the court without delay, and contested by the detainee in a fair and just judicial process. In the absence of such evidence, the detainee should be released immediately.

At any given time over the last year, 600-700 detainees were held under administrative detention. At the time this report was written (June 2004), 670 Palestinian residents of the occupied territories were held under administrative detention, and of those, over 100 were minors. Among the administrative detainees – 32 have been held for more than a year, 48

for more than a year and a half, and three have been held for over two years – without any charges being brought against them and without any incriminating evidence being presented, and without knowing how much longer they are going to be detained. According to data presented to the Knesset Constitution, Law and Justice Committee by the JAG, military court justices reviewed 2,600 administrative detention orders in 2003, of which 200 were cancelled and 1,400 shortened.

Asma Abu El-Heja, a forty year old woman and mother of six from the Jenin refugee camp, was released in November 2003 after being held in administrative detention for nine months. Abu El-Heja underwent two operations to remove a growth in her brain before she was detained, and still suffers from severe headaches and problems with her sight. She was not interrogated during her detention, and there is reason to suspect that the sole reason for her detention was to pressure her husband, a senior Hamas figure in Jenin, Jamal Abu El-Heja, who has been imprisoned in Israel since August 2002. Their eldest son is also jailed in Israel. During her entire term of detention, Asma Abu El-Heja was prohibited from phoning her young children who were left alone at home.

Noam Federman, an Israeli citizen and Kiryat Arba resident, has been held in administrative detention since September 2003 and until June 2004 by an order issued by the Minister of Defense, as recommended by the GSS. The order was extended for an additional six months in March 2004, but in June 2004 the Jerusalem District Court ordered the shortening of Federman's jail term and his release under restrictive terms.

Arab Minority Rights

From the Or Commission to the Lapid Committee: What Was Will Be

After it became clear in January 2004 that only 31 directors of the 641 government companies are Arabs (compared to 38 the previous year), the Prime Minister, Ariel Sharon, issued an order freezing appointments of directors for companies without any Arab representation. He also announced that by August 2004, all the 105 directorates must have Arab representation. Can we construe from this resolute measure a new policy established by the Prime Minister? It appears not.

In September 2003, the findings of the Or Commission, charged with investigating the events of October 2000, were published. The conclusions of the Commission laid special emphasis on the Arab citizens' feeling of alienation as a direct result of the discrimination and oppression they have suffered since the establishment of the state. The Commission therefore recommended taking steps to reinforce a feeling of equality, including:

- A policy of equitable distribution of state land;
- Fair allocation of state resources, and determined action to close the gap between the Jewish and Arab sectors, while setting clear and realistic goals in a clearly defined timetable;
- The addition of national events and state symbols with which all citizens can identify;
- Broad reform of the police force in relation to the Arab sector.

The government appointed a ministerial committee to examine methods of implementing the Commission's recommendations. The committee head was deputy Prime Minister and Minister of Justice, Mr. Yosef Lapid, and its other members were, Effie Eitam, Benyamin Elon, Tzachi Hanegbi, Tzipi Livni, Gideon Ezra, and Avraham Poraz. In June 2004, the committee submitted its recommendations, which included: the establishment of a government authority that will be subordinate to the Prime Minister and that will address the unique problems faced by the non-Jewish sector in regard to the following issues: planning and construction; budget allocation; fair representation in government authorities; education, and more; the integration of Arab youth into the national service program; the inauguration of a national holiday to be known as "Tolerance Day", on which the values of tolerance and solidarity among different sectors of society will find expression.

With regard to what the Arab minority's perceive as the central issue – the issue of land and planning and construction - the committee recommended that Minister of the Interior and the Israel Lands Authority, in partnership with the Arab local authorities, prepare an outline plan for the Arab communities, which would include local and regional industrial areas, including joint industrial parks that are overseen by both Jewish and Arab local

authorities. The decision to allocate additional land for new Arab community settlements was removed from the draft recommendations, due to pressure by two of the committees' members, ministers Effie Eitam and Binyamin Elon. The committee also condemned the phenomenon of illegal construction in the Arab sector without referring to the dire housing shortage that gave rise to it.

This attitude perpetuates the deliberate disregard by the Israeli government of the appalling shortage of land in Arab communities. This attitude is also exemplified by the decision of the government to give a discriminatory discount to newly discharged soldiers who wish to purchase land in the Negev and Galilee. According to the decision, a discharged soldier, as defined in the decision, can purchase land for building in the Negev and Galilee regions from the Israel Lands Authority for only 10% of the value of the land, which will be estimated in accordance with the full market leasing price at the time. The practical implication of the decision is preferential allocation of valuable land to the Jewish sector over the Arab sector, instead of allocating state land to the population as a whole in an equitable manner. In November 2003, ACRI petitioned the Supreme Court against the decision. The petition is pending.

Even before the publication of the Lapid Committee recommendations, a detailed report published by the organization Mossawa clearly showed that the government hasn't done anything to implement the Or Commission's recommendations regarding the budgetary discrimination, and that a large gap exists between the recognition of the desperate need for the allocation of financial resources, and the even the most minimal practical realization of this need, and the decreasing budgetary trend. The October 2000 government plan to develop the Arab sector, which budgeted one billion NIS per year for a period of four years (the "4 Billion Plan"), was cancelled in the budget of 2004, and money that was included in the ministerial budgets for 2002 was not distributed. ACRI petitioned the Supreme Court, together with the Committee of Arab Local Council Heads, and the Mossawa Center, against the Minster of Finance and other government ministries. During the hearing on the petition, the Supreme Court justices commented that it is not enough to allocate money for a specific purpose, it must be monitored to ensure that the money is used for the purpose for which it was intended.

In addition to the budgetary aspects of discrimination, animosity toward the Arab sector is growing all the time, and racist sentiments have free reign. At the Herzliya Conference in December, the Minster of Finance Benjamin Netanyahu referred to Israeli Arab citizens as a "demographic problem". In an interview with the Tel-Aviv local paper in May, the Minister of Transport called for the transfer of 90% of Israel's Arab citizens out of Israel. The popular Internet site, "Talk Back", which provides a forum for people to respond to topical questions, was full of statements dripping with hatred that were applauded by the other Internet surfers.

Humiliation

In the last few years, the security checks at the entrance to public places have become far more stringent. This is especially true of security checks that are carried out on Arabs, (and certain Jews whose names appear on a list of "left-wingers") at Ben Gurion Airport. These checks regularly result in a great deal of humiliation, unjustifiable invasion of privacy, unwarranted delays, and damage to property. Incidents have at times reached absurd levels. Israel's president invited Lutfi Mash'ur, the editor of the A-Sennnarah newspaper, to join him on his state visit to France. The security personnel at the airport insisted that Lutfi undergo a "regular" security check as an Arab, something that did not apply to the rest of the president's entourage. Nothing helped, not the protestations of the president's staff, and not even a personal request by the President himself. Mash'ur thus preferred to stay at home.

A few months later, Ali Wa'aked, a journalist for the YNET Internet site, was invited to join the Minister of Foreign Affairs on his visit to Egypt, Wa'aked who has been the correspondent for Arab affairs for four years, is an Israeli citizen and holds a press card issued by the Israel Government Press Office. However, this time the GSS ordered – with no explanation – not to issue him a permit that would allow him to travel on the Minister's plane.

The discriminatory attitude reflected in these two examples is the standard fare for Arab travelers.

Complaints received by ACRI's hotline staff show that over the last year the airport security staff has initiated a policy of confiscating laptops from Arab travelers (and "left-wing" Jews). The security personnel are authorized to check travelers' belongings before the flight in order to ensure the flight's safety, however, every check is subject to specific and non-discriminatory criteria that do not harm the dignity or invade the privacy of travelers. It should be noted that any security check that is not directly related to the safety of the flight (gathering information for example) is prohibited. The examination of personal computers (or cellular phones, or any other item that is liable to contain personal information) involves an invasion of privacy, and in the rare cases that this form of security check can be justified, procedural policy requires that it be carried out in the presence of the traveler. In cases that have come to ACRI's attention, the travelers have been forced to board the plane without their computers (and were not issued with any documentation attesting to the fact that the airport's security personnel had confiscated it). The fact that the computers were checked in the absence of the traveler means that there is no way of knowing if such an invasion of privacy occurred.

Hostile Policing

As a result of the lessons learned from the events of October 2000, and the recommendations of the Or Commission, the phenomenon of trigger-happy police

continues. Three Arab citizens have been shot to death in the last year (in three separate incidents) while sitting in their cars and posing no threat to the lives of the policemen.

- On 22.7.03, Mursi Jaba'aly, a 28 year-old man from Taibe, was shot while sitting in a car driven by his friend who was also injured by the shooting. According to the driver's testimony, the police opened fire on the car while it was at a complete standstill, contrary to the claims of the police that their lives were in danger.

- A few days later, Nasser abu al-Ki'an was shot dead by Border Police who opened fire on the 32 year-old resident of the Hora residential community in the Negev. According to testimonies published in the press, abu al-Ki'an's car was standing at the traffic lights at the Shokat junction in the south with cars behind, in front, and on both sides of his. The policeman, who alighted from a Border Patrol jeep that drove up, aimed his weapon at Nasser and shot him at close range through the car window.

- On 8.12.03, Mahmud el-Sa'idi, a 17 year-old resident of Lod, was shot dead in Ramle by police fire. He was shot while sitting with his friend in a stationary vehicle.

It should be noted that in the event that the police shoot directly at civilians when there is no immediate and tangible danger to any of their lives, and when the situation on the ground does not even justify the use of firearms, the prohibition is absolute. The number of incidents in which Arab citizens have been injured or killed by police opening fire in the last few years raises a suspicion that it is not mistakes or "operational errors", but a hostile attitude on the part of the Israel Police, and a combative approach that views Palestinian citizens of Israel as the enemy, and not as citizens worthy of equal rights.

Another expression of this combative approach of the Israel Police toward Arab citizens is made apparent by the following incident: On 4.5.04, the Israeli police imposed a form of "closure" on three Arab neighborhoods in the city of Lod as part of its declared war on the drug trade in the area. The neighborhoods are completely surrounded by police roadblocks, mounds of dirt or cement blocks that block off any alternative access points. To enter or exit the city, one must negotiate police roadblocks, suffer delays, interrogations, and aggressive searches that are often accompanied by maltreatment and humiliation. Non-residents of the neighborhoods are not allowed to enter. The police described the operation as long-term, and estimated that it is liable to take up to half a year.

The "closure" violates the most basic rights of the neighborhood residents, as well as the rights of those visiting these neighborhoods. The rights violated include the right to freedom of movement, privacy, liberty, dignity, and equality. There is no doubting the importance of a war on drugs, but even when tackling crime the police must act in a reasonable and proportionate way, while taking human rights into account. The police must take action against the drug centers and those distributing them, but they cannot

take sweeping action against whole areas in the hope that it will have a negative impact on the criminal activity there.

At the end of May 2004, the Supreme Court deliberated on the petition submitted by ACRI against the Israel Police, on behalf of five Arab residents of Lod, and the organization Almizan for Human Rights. The petition demanded the removal of the police roadblocks, and to stop the across-the-board policy of delaying people and vehicles at the entrance and exit to the neighborhoods. As a result of the petition, some of the infringements of the rights of residents ceased. The court ordered the petitioners to resolve the remaining issues with the police directly.

Land

In 1998, the IDF expropriated agricultural land from Wadi Ara to be converted into a training area for its troops. The expropriation caused protests that were dealt with harshly by the Israel Police. As a result of the protest, the state began negotiating with the Public Committee for the Protection of Land, Al Ruha, (formed after the land was expropriated) and the local council heads in the area. At the end of 2000, a agreement of understanding was signed according to which two military camps in the area were to be dismantled, and the local farmers allowed unlimited access to their land with no need for work permits. It was also established that approximately 28,000 dunam (of the 40,000 dunam under discussion) would be annexed to the jurisdictional areas of the villages within the boundaries of the Ma'ale Eron local council, the local council of Bassama, the town of Um El Faham, the local council of Ara, and the Kfar Kara local council. In less than two months, the Director General of the Ministry of the Interior appointed a committee of inquiry to investigate the boundaries of Um El Faham, the army firing ground in the area, and the neighboring local authorities, which was headed by Professor Yossi Ginat. The committee was supposed to work according to the spirit of the agreement and submit its conclusions within 6 months. However, it took the committee two years to finish its work, and submit its recommendation that only a few thousand dunam be added to the settlements within the jurisdiction of the aforementioned authorities. Part of the remaining territory remained in the same jurisdictional area, and was defined differently, such as a regional park or industrial park, in the district of Haifa. Other areas were left with no jurisdictional area as an enclave within the community. Another part of the area was defined as a military zone. The Minister of the Interior asked the committee to reconsider its recommendations, which it did, and the final recommendation was issued in December 2003. The committee recommended expanding the Arab local authorities' jurisdictional territory in the area of Wadi Ara by 10,300 dunam.

The State of Israel discriminates against its Arab citizens in all that is related to land usage, in a consistent and methodical way. The most extreme example of this discriminatory policy is the state's treatment of the Arab population of the Negev. The State of Israel established 7 towns in the Negev that over the years have became centers of poverty and unemployment, and are managed by external authorities. As part of the policy to settle the land issue in the Negev in the 1960's, thousands of Bedouins

submitted claims seeking acknowledgement of their ownership of a million and a half dunams of land. The state decided not to investigate the claims of ownership, and to pay meager amounts of compensation instead to those willing to withdraw their claims and move to the towns. Half the Arab residents of the Negev were transferred to these towns. The other half live in villages – some of which have existed since before the establishment of the state and some that were formed after a series of forced evacuations of the residents from their original place of residence. The state refuses to recognize these villages and thereby denies thousands of residents basic services and essential infrastructure, relinquishing them to a life of poverty.

In order to cause the Arab Bedouin population to move from the unrecognized villages to residential areas planned for them, the government activated a plan in the past year that includes, among other elements, an intensification of house demolitions, toxic spraying of crops from the air, the allocation of resources to reject land ownership claims by the Bedouin, filing eviction suits, and reinforcing state ownership of the land.

The state refuses to establish village settlements for the Bedouin, or recognize existing villages, while at the same it is establishing "isolated farms" and founding new Jewish communal settlements for the Jewish sector, when there is already a surplus of community village housing in the Negev for Jewish residents and a dearth of such housing for Arabs. One such communal settlement was established on land that members of the El-Okbi tribe had lived on continually until they were forced to move in the 1950's by a "temporary" military order (they were promised that they could return after six weeks, a promise that was never kept). Approximately one thousand members of the El-Okbi tribe live in unplanned villages, and the rest are dispersed throughout the country. At a certain stage the Israeli authorities agreed to establish a Bedouin village at the site and to consider allocating it to the El-Okbi tribe, but following a change in government the plan was buried and the land nominated for a new Jewish communal settlement called Givot Bar, in which 13 families currently reside.

However, it is important to mention a significant achievement here: For the first time in the history of Israel, the planning bodies utilized their authority, at the beginning of 2004, to formally recognize the village of Drejat located in the area of Tel-Arad (in the 1990's a few villages were recognized in the north of the country as a result of a government decision, but this is the first time that the planning authorities have used their authority to rule on the issue). The decision came as a result of ACRI's opposition to the local outline plans, based on an expert planning opinion prepared by the organization "Bimkom", which were submitted to the Ministry of the Interior's district planning office – southern region. Following the official recognition of Drejat, the Ministry of the Interior began preparing a detailed outline plan for the village. The residents of Drejat (more than 800 people) are no longer threatened with the imminent destruction of their homes, the local committee chairperson has been appointed as the community's representative on the Abu Basma Regional Council, and the village will receive municipal services and be connected to infrastructure in the future.

Citizenship Status

On July 31, 2003, the Knesset voted in favor of the amendment to the Law of Citizenship and Entry into Israel which contains a sweeping prohibition on the processing of new citizenship applications by Israeli citizens requesting citizenship status for their Palestinian spouse, or the continued processing of previously submitted applications.[3] It is a racist amendment that discriminates between families on the basis of the national origin of one member of the couple, and violates the right to protect one's family by enforcing a separation on many families in which one of the spouses is Palestinian. In some of the families, the non-Israeli spouse began the process of naturalization: submitted the documentation, endured all the background security and criminal checks, and were even deemed suitable for the naturalization process. As a result of the amendment to the law, the spouses were not able to obtain legal status, and were converted into illegal residents for reasons beyond their control.

Following the enactment of the law, a series of petitions were submitted to the Supreme Court, among them by ACRI, in cooperation with Adalah and a number of Knesset members, to demand the repeal of amendment. The Supreme Court, with an expanded panel of 13 judges, deliberated on this issue, but has yet to issue a ruling.

[3] The law essentially enshrined the basic principles of the government decision (No. 1813 of May 12, 2002) establishing that the graduated process (that was intended to arrange the naturalization of all foreign national spouses of Israeli citizens and determine the status they would be entitled to by marriage) will not apply to Israeli citizens who are married to residents of the Palestinian Authority. It should be noted that the granting of status to the non-Israeli spouse was not an automatic right, but was dependent on the discretion of the Minister of the Interior. Moreover, in regard to applications submitted by Arab citizens seeking status for their partners who are residents of the Palestinian Authority, the graduated process was in any case replete with obstacles.

Criminal Justice

Extensive powers are placed in the hands of the law enforcement agents that enable them to seriously violate human rights. It is important to be aware of the potential for abusing these powers, and to ensure that means of review and oversight are in place, both to prevent mistakes on the part of those enforcing the law, and thus ensure that innocent people's rights are not violated, and to prevent unnecessary infringement of the rights of those who have broken the law, who are still entitled to the basic rights. A prisoner's human rights do not end at the prison gates, and the only rights that can be denied are those that are directly related to the nature of incarceration. The following are two examples of unjustifiable rights violations: 1) the Israeli Prison Service announced that it did not intend to allow Yigal Amir to marry his fiancé, or permit conjugal visits; 2) Ra'ad Salah, the leader of the Islamic movement, has been detained since the beginning of proceedings against him in May 2003, and the Israel Prison Service rejected his request to hold his son (who was born while Salah was already in detention) during family visits.

In both these instances, and in the cases of much less renowned prisoners, law enforcement agencies used the authority granted to them without substantive justification. In other cases that will be detailed below, the misuse of authority resulted in the loss of freedom for some civilians, and even led to death in a few cases.

False Arrest and Coerced Confessions

In 2003, the Suspect Interrogation Law came into effect, which requires that the police fully document the interrogation, visually, orally or in writing, to ensure that every exchange between the interrogator and the suspect is recorded, and that body movements that may replace spoken responses are as well. The law states that the interrogation of suspects for serious crimes, for which the penalty is 10 years or more, must be visually documented using video cameras to prevent the use of prohibited interrogation methods and the extraction of a confession by these prohibited methods. The implementation of the main documentation requirements contained in the law is conditional on the issuing of orders accordingly by the Minister of Public Security.

In May 2004, three residents of Kfar Kana were released – Tarek Nojidat, Yusef Sabiah, and Sarif Eid – after being detained for ten months as suspects for the murder of the soldier, Oleg Shaichat. The three confessed to murder after they were interrogated by the GSS, but during their trial they retracted their confession claiming that it had been coerced. They were released from detention only after other suspects had been arrested for the murder.

This latest incident was preceded by a multitude of others in which suspects confessed to crimes they did not commit as a result of illegitimate interrogation methods. One of the more famous of these cases is the Israel Roads Authority case in which the suspects were convicted on the basis of confessions that were obtained illegally.

As a result of these recent cases, ACRI contacted the Minister for Public Security and the Minister of Justice to request that the authorities not wait until the last possible moment permitted by law to issue the required orders, to implement without delay the Suspect Interrogation Law that requires the clear documentation of police interrogations, and to impose the obligation not only on the police but also on other investigative bodies, such as the GSS.

Legal Representation

The establishment of the Public Defenders' Office was revolutionary, and significantly advanced the rights of detainees in Israel. The Public Defenders Law was enacted in 1995 after it became clear that the majority of the detainees had no legal representation and that the lack of representation resulted in a violation of the detainees' rights.

The law obligates the Israel Police to inform detainees of their right to seek representation from the Public Defenders' Office. However, according to a report issued by the Public Defenders' Office, the Israel Police is not fulfilling its obligation and the majority of detainees are informed of this right only at a late stage when they are brought to court for trial and meet with the public defender on duty. Consequently, suspects being held in detention are denied their right to consult with defense counsel during police interrogation. When an investigation was conducted of the Tel-Aviv district police to determine whether they were implementing the law, it became clear that over the years there had been a significant decline in the number of police officers fulfilling this obligation: in 1999, the Tel-Aviv District Police sent advance requests to the Public Defenders Office on behalf of detainees in only 36.7% of the cases where detainees were eventually represented by a Public Defender. In 2003 the figure was only 17.3%.

The violation of the law by police officers is only part of the problem. The lack of representation is a result first and foremost of the criteria used to determine the right of an individual to representation by the Public Defenders' Office. According to the existing criteria, the only detainees entitled to this service are the most poverty stricken individuals (a member of a family of three whose combined income exceeds 4,666 NIS gross and/or who holds property that is worth more than 21,000 NIS – is not entitled to representation). With regard to suspects, substantive criteria apply in addition to the economic criteria, according to which a defendant is entitled to representation where the crime he/she is to be tried for carries a penalty of over five years of imprisonment or more. Thus an individual, who is charged with three crimes carrying a penalty of four years of imprisonment, and is liable to be thrown in jail for years, is not entitled to representation. ACRI submitted a petition to the Supreme Court in 1999, which remains pending, challenging the substantive criteria claiming that every detainee without financial means should be entitled to legal representation.

Conditions of Imprisonment

The Detention Law, which came into effect in 1997, stated that, among other things, every detainee in Israel is entitled to a bed. But during the seven years since the law has come into effect, the state has blatantly violated the statutory provisions, claiming budgetary constraints and the unexpected increase in the number of detainees as an explanation. The state is thereby violating the most basic rights of the detainee population in Israel. International law also explicitly provides that minimally humane conditions must be maintained in detention centers, including a bed for each prisoner even in a situation of financial limitations (as established, for example, by the UN Committee for Human Rights in 1994, in response to the State of Cameroon's claim that because of financial restrictions it could not provide a bed for each prisoner). In response to the petition submitted by the Israel Bar Association and the organization Physicians for Human Rights in Israel, the Supreme Court issued an absolute injunction obligating the Israel Police to comply with the provisions of the "new" Detention Law, that entitles every detainee to a bed, as of the beginning of June 2004.

In May 2004, ACRI, and the organization Physicians for Human Rights in Israel, submitted a petition to the Supreme Court demanding not only the right of every detainee to a bed, but also the same right for every prisoner, noting that the right to a bed derives from the constitutional right to dignity of every prisoner. Every night, some 500 security and criminal offenders sleep on the floor, according to data presented to the Knesset Constitution, Law and Justice Committee, by the Israel Prison Service's Deputy Commissioner on 10.5.04. The data provided states that 13,000 prisoners are presently incarcerated, and in the last year another 1,143 places were added to Israel's prisons, and by the end of July another 1,300 are due to be added.

Privatization of the Prison Service

As part of the ongoing trend of privatization in Israel, the Knesset enacted a law in December 2003 to permit the establishment of a prison to be financed and run by the private sector. According to the law, the prison will be built in the southern part of the country, and 800 prisoners categorized as a low to medium security threat will be incarcerated there. ACRI voiced opposition to the proposed plan at various stages of the legislative process. ACRI believes that if the management of the prison service is handed over to private agencies that are driven primarily by the economic considerations of profit and loss, and if these private bodies are enabled to exercise governing authority to fulfill their functions, the prisoners are liable to suffer serious violations of their most basic human rights, and a severe deterioration in the level of services they receive –which are already extremely poor.

Legislation to Regulate the Cuffing of Detainees in Public Places

In December 2003, the Knesset enacted a law determining the authority for restraining detainees or prisoners in public places with cuffs. The law was enacted to ensure that the individual's dignity is not violated, that the detainee or prisoner is not constrained in public places, as on their way to court, if there is no perceivable danger that he/she will escape or endanger themselves or their immediate surroundings. Prior to the enactment of the legislation, a number of incidents occurred in which prisoners and detainees were physically constrained in a public place and their dignity infringed for no reason.

Mordechai Vanunu – Prisoner/Released?

Upon the release of Mordechai Vanunu from jail, after almost 18 years of imprisonment, a series of restrictions were imposed on him that essentially extend his period of imprisonment: he is forbidden to leave Israel for a year; he is prohibited from changing his address for 6 months without giving 48 hours notice; he is obligated to give 24 hours notice if he intends to leave his city of residence, he is also required to give a detailed list of the places he intends to visit and how long he will spend at each one; he must give a day's notice every time he intends to sleep anywhere other than his home; he is forbidden to be within 500 meters from any exit point from which he can leave Israel either by air, sea, or land; he is not allowed to enter, or try to enter, any foreign diplomatic mission; likewise he is prohibited from making connections with or exchanging information by any means with foreign citizens or residents, or to partake in Internet "chat" sites. Any request to deviate from these restrictions have to be submitted in writing to the officer in charge of the police headquarters closest to his place of residence, at least 48 hours in advance.

The severe restrictions that were placed on Vanunu deprive him of his freedom of movement and sentence him to social isolation. The state authorities justify the restrictions by the perceived threat he poses to the "security of the state", but this threat has been shown to be pointless in recent years, and even more so by the years he spent in jail not in solitary confinement during which he came into frequent contact with other internees and members of his family. The restrictions therefore appear to be motivated by feelings of revenge, punishment, and deterrence rather than any attempt to protect the security of the state. In June 2004, ACRI petitioned the Supreme Court against the Minister of the Interior and the head of the Home Front Command on behalf of Mordecahi Vanunu, to demand the cancellation of the severe restrictions imposed on him after his release from prison. The Supreme Court was also asked to establish that the Defense Regulations of 1945, and the 1948 Emergency Regulations relating to leaving the country are void, as they contravene the constitutional regime in Israel.

Privacy

The State of Israel was in the past one of the countries with the most advanced systems for guarding individual privacy. However, the protection that is established in the Protection of Privacy Law and in Israel's Basic Law: Human Dignity and Liberty, was not accompanied over the years by the necessary enforcement and detailed arrangements that would provide solutions to security, technological, and economic developments such as: the technical ability to collect data on a computer database and cross reference it; the vast concentration of power in financial institutions (like credit card companies) that store information; and the ongoing security threats that are perceived as a justification for the invasion of privacy. All the aforementioned pose a real threat to the individual's right to privacy, with no substantive protection.

Transfer of Information between Public Agencies

The right to privacy is a constitutional right, and every infringement of it has to be authorized by specific stipulations in the law and have a suitable purpose. Even if such a purpose exists, the infringement must not deviate from what is absolutely necessary to reach the specified goal. In May 2004, the Supreme Court accepted the petition that was submitted by ACRI in 1998 challenging the right to access information contained in the Population Registry that was extended to hundreds of clerks working in the finance department of the Israel Broadcasting Authority, Income Tax Authority, the National Insurance Institute, the Postal Authority and commercial banks. Justice Dalia Dorner, who issued the ruling, accepted ACRI's claims that the current situation excessively infringes on the right to privacy, and is not enshrined in legislation, and ordered the state to cease the practice of transferring information from the Population Registry to state agencies. The court allocated half a year to the state to institute new regulations that will allow the transfer of information in cases where it is absolutely necessary, in accordance with criteria that will ensure minimal infringement of the right to privacy.

The Invasion of Employees' Privacy

A serious problem that employees are not always aware of and find difficult to challenge, is the phenomenon of employers invading the privacy of their employees. For example, cellular phone companies offer a service to employers that will enable them to track the usage of employees' mobile phones. This means that the employer can follow the movements of an employee 24 hours a day, 7 days a week, and represents a serious infringement of the employees basic right to privacy, and to the accepted norms of the employee-employer relationship. The employee does not always know and agree to the tracking. And even if an employee agrees to take a phone from his employer, that does not mean that he agrees to the invasion of his/her privacy because of the clear advantage the employer has over his worker in the balance of power. ACRI's investigations

revealed many more examples of this phenomenon: the required signature on a sweeping waiver of medical confidentiality when accepting employment, tapping of cellular phones and electronic mail, video cameras in the workplace, and searches in personal lockers.

In August 2003, it was reported that the telephone/Internet company Barak began the practice of carrying out routine polygraph tests on its employees as part of the "procedure for ensuring company confidentiality". According to published estimates, 25-30 thousand polygraph tests are carried out in Israel each year in the area of employer-employee relations. In November 2003, the government submitted a bill to the Knesset to prohibit employers from requiring polygraph testing as a condition of employment. ACRI welcomed the bill, but emphasized that all polygraph tests in the area of employer-employee relations should be prohibited, whether consensual or not.

Citizenship and Residency

Despite statements made by the Minister of the Interior, Avraham Poraz, that he will ease the Israeli citizenship application process, large numbers of people continue to be buried under endless rigid procedures and arbitrary decisions in their attempt to gain legal status. The operation of the Ministry of the Interior's Population Registry reveals a serious degree of racism, impermeability, arbitrariness and disregard for the rule of law. The large number of complaints that reach ACRI's public hotline demonstrate, for the most part, clear violations of human rights: the right to dignity; family life; citizenship; livelihood; health and welfare; to leave Israel, and more.

In most cases, there is no alternative to turning to the courts, which almost always resolves the legal status of an individual, once a petition has been submitted, and the Ministry of the Interior accordingly rescinds its demands. Over the last year, it has been come to ACRI's attention that 40% of the petitions submitted to the Supreme Court, and 40% of the administrative petitions submitted to the administrative courts involve issues related to the Population Registry of the Ministry of the Interior. This is a very troubling statistic that points to the undermining of the rule of law in every aspect of the Population Registry's work.

The process of naturalization for spouses of Israeli citizens is difficult and contentious. The Ministry of the Interior places difficult and strange obstacles in the path of those seeking to establish the status of their spouses, despite the obligation established by law to ease the process of naturalization for spouses. Applications for family reunification are in many cases summarily rejected with no explanation provided for the rejection. As a result of a petition submitted by ACRI, the Ministry of the Interior presented a new procedure to the court, which has not been implemented in practice. The Ministry demands that the applicants produce a long list of documentation, which on the face of it is not unreasonable, but for many results in an untenable situation of continual pointless trips back and forth to the Ministry as each time the clerks demand the production of yet another new document. In many cases, the couple stands no chance of producing the required document. An example of this is the certification requested from a foreign national spouse of an Israeli citizen that verifies that he/she was single before their marriage to the Israeli citizen. Many countries do not issue such documentation, but the Ministry demands it anyway. From the dozens of cases dealt with by ACRI, it has become apparent that the Ministry is adopting a policy of exhausting the applicants to the point where they just give up. The spouse who finds himself off the application track because of a bureaucratic difficulty – or simply because her application was not processed – is faced with a far more serious situation, and in all probability will be forced to wait for months with no legal status, no health or social rights, and exposed to potential arrest or deportation. If the non-Israeli spouse has relatives in Israel who are residing with him illegally - their situation is apt to be even more serious. The Ministry of the Interior is likely to demand that he turn in his relatives in return for legal status.

The Minister of the Interior announced this year that it has introduced a new procedure to regulate the status of common law spouses, including same-sex spouses. However, the procedure has not been published officially, and it is not clears what the terms are and if it has been put into practice.

The Ministry of the Interior continues to refuse to register children in the Population Registry who were born to an Israeli father and foreign national mother. The Ministry even refuses to register the parenthood of foreign national fathers of children who are Israeli citizens. The registration is conditioned on the production of a declarative court judgment regarding paternity that is based on DNA testing. A majority of the applicants cannot afford the court fees or the cost of the DNA test.

The Ministry of the Interior continues to label citizens and residents as "denied service", and thereby withholds basic services, such as the issuing of passports or identity cards for those that are entitled to it. Those who have the dubious honor of appearing on the "blacklist" of those denied service (for a variety of reasons, from the suspicion that an applicant illegally obtained legal status, to the need to change some tiny detail in the Population Registry) are liable to encounter an impenetrable wall of clerks refusing to give him service for years, without any reason being provided. In 2002, ACRI and the Israel religious Action Center petitioned against the denial of services. During the hearing on the petition, the Ministry presented a new procedure to the court designed to deal with those who are denied services, but it does not solve the problem either. ACRI continues to receive a constant flow of complaints from people who are still being denied services.

Migrant Workers

Status of Adult Children

The Minister of the Interior, Avraham Poraz, has stated a number of times that he intends to grant permanent legal status to the children of migrant workers who were born and raised in Israel.

ACRI petitioned the Tel-Aviv District Court in 2003 on behalf of four sons of migrant workers who were born and Israel and lived here through the age of majority, to demand that the state grant them legal status as permanent residents. The petitioners are young people who know no other country, have lived in Israel all their lives, and have no affinity with any other country. Despite this, the state refuses to grant them any legal status. As a result of the petition, the Minister of the Interior guaranteed that until a government decision on the issue was reached, none of the children above the age of 10 that have lived in the country for a significant number of years would be deported.

More than a year has passed since the petition was submitted, and there has been no significant progress, and the children of migrant workers, some of whom have reached adulthood, still lack legal status in Israel. The ministerial committee that was convened to investigate the issue following a government decision is still deliberating. Meanwhile, the parents of the children whose fate is to be decided by the committee have been freed on nominal bail until a final decision is reached.

The Mass Deportation

In the last year the pace of deportation of foreign residents residing in Israel without a permit has increased substantially. The government of Israel has declared war on the migrant workers, created an Immigration Police, established an enforcement unit in the Ministry of the Interior, and fixed yearly deportation quotas.

The intense activity of the Immigration Police and the Ministry of the Interior has led to serious infringements of the migrant workers' rights. Human rights organizations received reports of the following: extreme violence toward detainees; the active pursuit of migrant workers; the marking of their apartments; holding detainees in detention for more than 14 days without judicial review in contravention of the law; detention orders signed by individuals with no authorization to do so; judicial hearings that were held for people who do not speak Hebrew, during which they signed orders of which they had no idea of the contents and were not given any explanation; arbitrary arrests of those residing legally; police eating the detainees' food, etc, etc.

Evidence received by ACRI showed that senior members of the Ministry of the Interior threatened judges of the Custodial Courts who are authorized to release prisoners on bail. These judges, who are authorized to review the decisions made by the Ministry of the Interior relating to whether or not to detain an individual, are not only subordinate to the Ministry of the Interior, but they are also dependent upon the Ministry for the continuation of their tenure as judges. According to the aforementioned evidence, Ministry of the Interior clerks threatened the judges that if the judges release detainees on bail, the clerks would issue a formal complaint to the Deputy Attorney General, and ensure their dismissal.

Two employees of the Ministry of the Interior's enforcement unit for foreign nationals who exposed these serious incidents, and a number of other ones involving the Immigration Police and clerks employed by the Ministry of the Interior, through the filing of formal complaints with their superiors and the Civil Service Commission, were dismissed from their jobs. By order of the Civil Service Commissioner, the employees were reinstated, however one of them was fired at a later date. Following this incident, the employees of a certain district of the enforcement unit were summoned to a meeting with a senior official of the Ministry of the Interior, who threatened anyone who was considering "leaking any information to outside sources", and added that anyone who did not demonstrate absolute loyalty to the system would be dismissed.

The enforcement unit for migrant worker works to prevent any assistance reaching the migrant workers that are detained. Over the last year, the Ministry of the Interior has begun asking voluntary organizations offering assistance to migrant workers to provide a power of attorney as a condition for their continued work with foreign nationals who turn to them for assistance. In effect, this means that the Ministry of the Interior is refusing to deal with those that are held in detention facilities, however serious or urgent their situation is, until a representative of the voluntary organization ensures that the individual in questions signs the power of attorney. Since December 2003, attorneys have been prohibited from meeting with people slated for deportation during their wait at the deportation terminal at Ben Gurion Airport – a prohibition that infringes on their right to legal consultation and access to judicial tribunals.

The aggressive and destructive manner in which the Immigration Police and Ministry of the Interior carry out their deportation program demonstrates that there are those who assume that the ends justify any means. Data published by the Immigration Administration indicates that 100,000 foreign nationals have been deported since the establishment of the Immigration Police. Month after month, an average of 2,200 people are deported. Inherent in such sweeping deportation figures are gross human rights violations, and there has been no parallel increase in the number of Custodial Courts (the body that is authorized to extend the detention period of candidates for deportation or free them) as the number of deportations has increased. This means that an untenable number of cases are brought before the courts daily, which violates the right to due process for those slated for deportation. Currently, there are four deportation courts: two in the Massiyahu detention facility, in which some 400 people are being held in custody, one in

the Tzohar and Mical which hold 234 detainees, and one detention in the Renaissance prison facility, in which 500 individuals are held in custody.

ACRI submitted a petition to the Supreme Court challenging the law allowing the detention of foreign nationals that are due to be deported from Israel for two weeks until their judicial hearing. In the petition ACRI demands that the permissible detention time be shortened to 24 hours to correspond with the law governing criminal detainees. The Attorney General, Mani Mazuz, informed the Supreme Court that he had issued an order stating that from the end of May 2004, the custodial detainees will be brought before a judicial tribunal within four days of being detained, that the Custodial Courts will be under the jurisdiction of the Ministry of Justice, and that a suitable number of Custodial Court judges will be allocated to correspond with the number of detainees. If these instructions are implemented, then the situation will improve somewhat, but they are not enough to correct the inherent flaws in the detention process for those that are residing illegally in Israel.

People with Disabilities

In 1996, the President of the Supreme Court, Justice Aharon Barak, issued a statement (the *Botzer* judgment): 'The disabled person deserves equal rights. His/her place is not to be isolated from society or on its sidelines. He/she is a regular member of the society in which he lives. The aim is not to reinforce his isolation but to facilitate his integration into mainstream society by using, in some instances, affirmative action." It appears that the government finds it difficult to internalize this important moral code. The following are two recent examples.

The Integration of Children with Special Needs into Mainstream Educational Frameworks

In November 2002, the Knesset approved an amendment to the Special Education Law that enshrines the rights of children with special needs to integrate into the mainstream education system. The law was designed to end the Ministry of Education's discriminatory policy of providing extremely limited services to assist special needs children in their attempt to integrate into the mainstream school system, whereas if these same children were to study in the special education system, they would receive a broad basket of services. The law specifically states that children with special needs should be provided with all the extra assistance they require for their education, whether they learn in the special education stream or if they are integrated into the mainstream school system. The law states that the decision as to what system children with special needs should learn in should be determined by an Integration Committee, which will also determine what special services the child will receive to ensure their effective integration.

The Ministry of Education disregarded the law, and rescinded the Integration Committees' authority to allocate special resources that are an essential condition for the integration of children with Downs Syndrome, autism, or serious physical disabilities, who wish to integrate into the mainstream school system. Instead, the special education supervisors allocate budgets, make budget cuts, or completely cancel services for these children based on institutional and bureaucratic considerations that are completely divorced from the needs of the child. In May 2004, the Supreme Court accepted a petition submitted by the organization Bizchut, and the organization "Yahad", against the Ministry of Education, and instructed the Ministry to implement the law for the upcoming school year.

Isolated from Society

The overriding perception in most of the world is to see people with disabilities as people with equal rights, whose position in society should be viewed in the same light as any other person. The practical implication of this worldview is the gradual closing of institutions specifically designated for people with disabilities, and the channeling of resources into the development of community housing, although in Israel the number of

institutions is continually increasing, and in the last decade approximately twenty new institutions have been opened.

The government of Israel supports and encourages this contrary trend. During the last year, the government began constructing a village in the Negev named "Alay HaNegev". Once it has been completed (according to the booklet prepared by the village's promoters), 204 mentally and physically disabled people will be housed there. The village is to be constructed in accordance with government guidelines, it will be granted the status of national priority project, and the government has undertaken a large part of the project's initial outlay and ongoing costs. The establishment of the communal settlement – as aesthetic and modern as it is – still sentences its population to living separately from mainstream society, contravenes the right to dignity and equality, and prevents them from living as part of society.

Legal Representation for the Mentally Disabled Before Psychiatric Committees

In March 2004 the Knesset approved an amendment to the Treatment of the Mentally Ill Law, following an initiative by Knesset member Ophir Penis, and a petition submitted to the Supreme Court by ACRI and the organization Bizchut. The amendment ensured the right of an individual with mental disabilities to representation when appearing before psychiatric committees that are authorized to issue directives regarding medical treatment or enforced psychiatric commitment. The appointee will be an attorney appointed by legal aid (for civil commitment), or a public defender (for criminal commitment). The law obligates the authorities to inform the individual of this right. The right to representation was first implemented in May 2004 in the center of the country and will gradually spread to the rest of the country by 2007.

Access to Public Places

The Commission for the Equality of People with Disabilities carried out a survey of the accessibility of public places for disabled people. The survey included approximately 167 schools, 109 health clinics, 73 banks, and 18 shopping malls throughout the country. The survey showed that the majority of public places are inaccessible to people with disabilities as employees or as customers.

Up until this year, only those who were disabled before the age of 65 were entitled to park in the allocated disabled parking spots (parking places that enable people with disabilities to park in places not designated for parking, provided these spots do not cause any danger or obstruction). Whoever became disabled after this age was not entitled to place the special parking permit in their car unless he/she drove themselves. In March 2004, the Knesset revised this absurdity to allow every disabled person who owns a car, or whose family members own a car, to be eligible to place the parking permit for people with disabilities on their car and use the special parking spaces.