

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



**Additional Information Concerning Violations of the
ICERD in Israel and the Occupied Territories**

February 2007

The following report provides updated information on a selection of issues relating to racial discrimination in Israel and the Occupied Territories that ACRI wishes to bring to the attention of the CERD Committee. The report is intended to complement the more detailed shadow report that we submitted to the Committee in January 2006.¹

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¹ ACRI's Shadow Report to CERD, January 2006:

<http://www.ohchr.org/english/bodies/cerd/docs/ngos/acri-ShadowReport.pdf>

ISRAEL

Proposed Amendment to the Illegal Resident Law

❖ The Knesset is currently debating a proposed amendment to the Illegal Resident Law, according to which anyone without a valid residency permit would be forced to leave Israel for a "cooling-off" period of between one and five years as a condition for formalizing their status in Israel.

❖ Israel lacks any clear immigration policy vis-à-vis non-Jews, and the Interior Ministry's procedures with regard to non-Jewish foreign nationals wishing to acquire status in Israel lack transparency and in many cases create insurmountable and discriminatory bureaucratic obstacles. By making it so hard for non-Jewish foreign nationals to obtain residency status, these procedures actually create the illegal residents that the amendment is targeting.²

❖ If enacted, the proposed amendment would affect tens of thousands of Israeli families and violate their right to choice of spouse and family life.

❖ Among those individuals who would be affected by the amendment are: foreign national spouses of Israeli citizens and residents, parents of Israeli minors, children and elderly parents of Israeli residents and citizen, dozens of stateless Bedouin, refugees and asylum seekers, and victims of sex trafficking.

❖ The proposed legislation contravenes previous rulings issued by Israel's High Court of Justice.

Discrimination against the Negev Bedouins in the Sphere of Planning

❖ The Shadow Report to CERD submitted by ACRI in January 2006 describes various violations of the basic rights of the Bedouins of the Negev that are a direct result of the government's discriminatory policies, especially in the sphere of planning.³

❖ In December 2006, the District Planning and Building Committee authorized the partial Outline Plan for the Beer Sheva Metropolis (23/14/4) despite substantive objections made by Bedouin representatives and by human rights organizations such as ACRI working on their behalf.

❖ The plan perpetuates the long-standing discrimination against the Negev Bedouins and the inequitable allocation of lands by failing to recognize 38 of the 45 unrecognized Bedouin villages, while concurrently encouraging the establishment of new Jewish rural communities in addition to the existing 106 Jewish communities and 30 single household farms.

² For further information on this issue, please see pp. 31 – 36 of *ACRI's Shadow Report to CERD*, January 2006.

³ Please see pp. 38 – 44 of *ACRI's Shadow Report to CERD*, January 2006.

- ❖ The State claims that it refrains from recognizing the existing Bedouin communities and their traditional agricultural lifestyle due to lack of lands and the policy of only allowing urban settlements and not agricultural villages.
- ❖ This claim is undermined by the fact that the Jewish communities that the State allows to be established in the same area are predominantly agrarian, and that many of these communities are allocated tens of thousands of acres each.
- ❖ Even though no appropriate planning solution has yet been found for the Negev Bedouins, the policy of using house demolitions as an enforcement tool continues to be vigorously enforced. In the last three months alone, 39 houses have been demolished, and at least 200 demolition orders have been issued, sometimes targeting entire neighborhoods (such as e-Surrah and Twil abu Jarwal).

ISRAEL AND THE OCCUPIED TERRITORIES

The Citizenship and Entry into Israel Law (Temporary Order) - 2003

- ❖ In May 2006, the Supreme Court ruled in favor of upholding the Citizenship and Entry into Israel Law (Temporary Order).
- ❖ The decision not to revoke the law, which denies any possibility of formal residency status being granted to Palestinians from the Occupied Territories who are married to Israeli citizens or residents, represented a severe blow to democracy and human rights in Israel.
- ❖ The decision was delivered by a narrow 6-5 majority in an expanded panel of justices.
- ❖ However, the majority of justices ruled that the law violates basic rights; their opinions were divided concerning the proportionality of the violations. Five justices ruled that the violation is proportionate and another five that it is disproportionate. One of the majority justices ruled that the law disproportionately violates basic rights, and gave the State nine months to amend the existing legislation.
- ❖ Nonetheless, in January 2007 the law was extended for a further three months.
- ❖ Claims by the State that the law is only a “temporary measure,” are completely undermined by the fact that the ban on family unification for Israeli-Palestinian couples has already been in force for five years.

Proposed Expansion of the Citizenship and Entry in Israel Law

- ❖ The Knesset is currently debating enacting an additional amendment to the Citizenship and Entry into Israel Law which would further expand the scope of the law.
- ❖ In addition to continuing to prohibit the granting of status in Israel to Palestinian residents of the Occupied Territories who are spouses of Israeli

citizens or residents, the proposed legislation will extend the prohibition to spouses who are citizens or residents of "enemy states."

❖ The states which fall into this category will be determined by the Israeli security authorities.

OCCUPIED TERRITORIES

Discriminatory and Debilitating Restrictions on Palestinian Freedom of Movement in the West Bank

Israel's sweeping restrictions on Palestinian freedom of movement in the West Bank have reached an unprecedented level since the start of the second *Intifada* in September 2000. These severe restrictions discriminate against the Palestinian population on the basis of national origin and are in grave breach of Israel's obligations under the ICERD. By preventing Palestinians from reaching their places of employment, agricultural lands, and markets, these restrictions have violated the Palestinians' basic right to work as well as a host of other social and economic rights.

Key examples currently addressed by ACRI include:

Segregationist Restrictions on Palestinian Movement in Hebron

❖ Since the start of the second *Intifada*, the center of Hebron has become a ghost town, and its Palestinian residents have been forced to leave or to live with severe and segregationist restrictions on their freedom of movement.⁴

❖ The closing of main streets and roads to Palestinians has completely disrupted their way of life. Their rights to employment, health care, education, family life and social life, and basic services have been severely impaired. The result of prohibitions on movement and the operation of shops and businesses is that thousands of Hebron's residents have lost their sources of income.

❖ Israel claims that these restrictions on Palestinian movement are designed to protect the security of the settlers living in the heart of Hebron. In response to an expert security opinion prepared by former high-ranking Israeli security officials and submitted by ACRI to the Attorney General, that showed that there exist alternative ways to protect the settlers in Hebron while preserving the Palestinians' fabric of life, the IDF sent a letter to ACRI on 31 January 2007. The letter stated, "it appears that the assumption on which the opinion is based—that an everyday Palestinian way of life in the area can be maintained alongside an Israeli way of life—is inconsistent **with the principle of**

⁴ For a detailed analysis of the situation in Hebron, please see pp. 19-26 of *ACRI's Shadow Report to CERD*, January 2006.

separation that lies at the base of the armed forces' plan for protecting the area [emphasis added].

ROADS FOR ISRAELIS ONLY:

Road 443

- ❖ Road 443 is a main road in the West Bank which until the beginning of the second *Intifada* was used by tens of thousands of Palestinian villagers to connect them to their neighboring villages and to Ramallah.
- ❖ Since the end of 2000, the IDF, by various measures and directives has prevented Palestinians from using this main highway and rendered it for the exclusive use of Israelis.
- ❖ The prohibition on Palestinian travel along Road 443 has never been authorized nor set in writing.
- ❖ This sweeping prohibition denies the Palestinian residents their most fundamental rights and constitutes illegal and systematic separation and discrimination on the basis of national or ethnic origin.
- ❖ Since May 2006, ACRI has repeatedly appealed to the Military Commander of the West Bank on behalf of the Palestinians residents of six local villages, and in a response received by ACRI in October 2006, the IDF denied the existence of a prohibition on Palestinians using the road.
- ❖ In actual fact, all access roads from the villages to the road and vice versa are completely blocked by the IDF, thereby preventing Palestinians from traveling on the road.
- ❖ In light of the IDF's recalcitrance to revoke this policy, ACRI will shortly submit a petition against the travel prohibition to the High Court of Justice, on behalf of six Palestinian villages comprising 30,000 residents.

Beit Awa – Dura Road and Junction

- ❖ In May 2006, ACRI submitted a petition to the Israeli High Court of Justice against the road blocks and restrictions on Palestinian vehicular traffic imposed by the IDF on the Beit Awa junction and on the Beit Awa-Dura road in the area of the Hebron hills.
- ❖ These restrictions have negatively impacted the lives of tens of thousands of Palestinian residents living in 22 villages.
- ❖ The road blocks and bans on vehicular traffic are designed to ensure that a substantial section of the Beit Awa-Dura road leading to the Negahot settlement is only used by the approximately 150 Israeli residents of that

settlement and a neighboring outpost; this in effect means that the use of this main road has been denied to tens of thousands of Palestinians in the area.

❖ These sweeping restrictions on movement are illegal and discriminate against the Palestinian civilian population on the basis of national origin.

❖ In addition, the restrictions have severely violated the fundamental rights of the local Palestinian residents, and represent a form of collective punishment.

❖ In September 2006, in response to the petition, the IDF partially re-opened the Beit Awa junction to Palestinian traffic, but kept the Beit Awa-Dura road closed to Palestinians.

❖ In its responses to the petition, the State argued that this prohibition on Palestinian movement does not constitute discrimination on the basis of national origin, but rather, a legitimate distinction due to the security risk to settlers posed by Palestinians.

❖ On 13 February 2007, the IDF Military Commander of the West Bank signed a military order "forbidding movement along the road to all persons who are not Israeli." The order states that it will remain valid until 31 December 2009.

Freedom of Movement for Nablus Residents

❖ In September 2006, ACRI submitted a petition to the High Court of Justice demanding the revocation of the IDF's illegal orders that prohibit the movement of tens of thousands of Palestinian residents, and limits them to territory within the area of the city of Nablus.

❖ The petition relates to the IDF orders that have been repeatedly issued during the past five years which prohibit residents of the city, who fall within a specific age range which changes periodically, from leaving the city's boundaries.

❖ The delineated area includes the city of Nablus, three refugee camps, and 15 villages that are adjacent to the city, within which over 200,000 people live. In the last period the prohibition has applied to individuals who are between the 16 and 35 years old.

❖ ACRI emphasizes in the petition that these orders sweepingly deny thousands of Palestinian residents' their right to freedom of movement, completely destroys their fabric of life, and are in grave breach of international humanitarian law.

Sweeping Ban on Palestinian Movement in the Jordan Valley

❖ According to Israeli directives, all Palestinian residents of the West Bank are banned from entering the area of the Jordan Valley, (with the exception of those Palestinians whose registered address is in one of the communities in the Valley).

❖ This prohibition has never been authorized by a written order.

❖ Approximately 27,000 residents live in this closed area, which also comprises large tracts of agricultural lands which are the primary source of

income for thousands of families. Many of the owners of these lands do not live in the closed Jordan Valley area.

❖ The directives are enforced by the Israeli security forces and prohibit Palestinian vehicular and pedestrian movement and entry in the area of the Jordan Valley. Implemented through IDF checkpoints on the main roads, mobile checkpoints, earth mounds, and the destruction of roads and paths to make them inaccessible to vehicles.

❖ While the Palestinian population is prevented from entering the area, Israelis are permitted to enter the area without any restrictions.

❖ The ban therefore constitutes discrimination against Palestinian residents on the basis of national origin.

❖ The sweeping ban illegally and disproportionately violates the basic rights of hundreds of thousands of Palestinians and completely destroys their daily fabric of life.

❖ In addition, the ban isolates the Valley from the West Bank.

❖ ACRI appealed against these directives in a letter to the Defense Minister, Amir Peretz, in December 2006.

Prohibited by the General Security Services (GSS)

❖ In October 2006, ACRI, together with Hamoked and Physicians for Human Rights, submitted a petition to the High Court of Justice challenging the unconstitutional violation of the human rights of thousands of Palestinian residents of the Occupied Territories whom the GSS classifies as "prevented for security reasons."

❖ Any individual who has been thus classified is subjected to severe freedom of movement restrictions, such as traveling abroad, entering Israel, and entering the seam zone.

❖ An estimated 180,000 Palestinians are currently defined as "prevented for security reasons" but the reasons for their being thus classified are confidential.

❖ The petition draws attention to the total lack of transparency governing this policy and the systemic failure of the security establishment to respect the right to due process.

❖ In 70% of the cases in which petitions were submitted against the security forces' decision to classify an individual as "prevented for security reasons," the decision was cancelled and the restrictions on movement were lifted. This data clearly reveals the arbitrary nature of the decision-making process governing these classifications.

THE SEPARATION BARRIER

The route of the Separation Barrier causes grievous damage to the daily fabric of Palestinian life in the Occupied Territories by restricting movement and severing Palestinians from their agricultural lands, families, work places, schools, and social services.

The Separation Barrier in A-Ram

- ❖ In December 2006, the High Court of Justice rejected the petition that was submitted by ACRI and Bimkom in June 2004, against the section of the Separation Barrier near the Palestinian community of A-Ram in northern Jerusalem.
- ❖ The High Court ruled that the enclosure of tens of thousands of Palestinians behind a nine-meter high concrete wall is a “proportionate” violation of their human rights.
- ❖ The Barrier surrounds A-Ram on three sides, and cuts 58,000 residents off from East Jerusalem and from a number of adjacent neighborhoods.
- ❖ To access East Jerusalem, A-Ram residents are forced to wait lengthy periods at the Kalandia checkpoint, the only checkpoint in north Jerusalem, which severely impairs their daily fabric of life. Many A-Ram residents require daily access to and from the city in order to reach their places of work, schools, health services, and social services.
- ❖ Since the construction of the Barrier in A-Ram, 40% of the businesses in A-Ram have closed down, and thousands of residents have left the community for East Jerusalem.
- ❖ In contrast to claims made by the State, the route of the Barrier in A-Ram was not determined by security considerations but by political ones, including the desire to make the annexation of East Jerusalem to Israel permanent.
- ❖ The route separates Palestinian neighborhoods from each other. It is designed to preserve the municipal boundary of the area that was annexed to East Jerusalem, as well as to annex additional settlement lands.
- ❖ This is the most drastic step that has been taken since the occupation of East Jerusalem to separate it physically from the rest of the West Bank, and severely violates the basic human rights of Palestinians on both sides of the Barrier.

The Seam Zone

- ❖ By encroaching deep into the Occupied Territories, the route of the Separation Barrier has created enclaves between the Green Line and the Barrier, in which thousands of Palestinians live, and in which tens of thousands of Palestinians living on the “Palestinian side” of the Separation Barrier, especially farmers, pursue their livelihood.
- ❖ In 2003, the IDF declared this a closed military area, termed the “Seam Zone.”
- ❖ Palestinians residing in the Seam Zone, or wishing to enter the Seam Zone in order to access their agricultural lands, work places, and social services, must obtain special permits in order to do so.
- ❖ Meanwhile, Israelis, as well as Jews who are not Israeli citizens and tourists, are all allowed to reside in and enter the Seam Zone, without constraints.

- ❖ The permit regime violates the fundamental rights of over 7,000 Palestinians living within the Seam Zone, and many thousands of Palestinians who have lands and family ties within the Seam Zone.
- ❖ Thousands of requests from Palestinians for permits are denied, and the rejection rate is growing.
- ❖ Israel justifies the permit regime by claiming that is determined by security considerations and the need to prevent attacks from being carried out within Israel; in actual fact, however, the proportion of requests that are denied on the basis of security concerns is minimal.
- ❖ The vast majority of requests are denied on the contention that the applicant has not provided sufficient proof of ownership of the land. It should be noted that the process of proving ownership of land is lengthy, complicated and costly, and imposes a heavy financial and bureaucratic burden on the Palestinian residents.
- ❖ In addition to destroying the daily fabric of life of tens of thousands of Palestinians, the permit regime represents severe discrimination on the basis of national and ethnic origin.
- ❖ Coupled with the permit regime is the series of gates that Israel has built along the route of the Barrier, through which permit holders are allowed to pass. However, these gates are in many cases located far from the Palestinians' villages and often do not open as scheduled. Added to this is the fact that Palestinians are frequently prohibited from accessing the Seam Zone in their vehicles, which means that farmers must walk or use donkeys to reach their land and to bring out their produce.
- ❖ These difficulties have grievously impaired farming in this area – the primary source of livelihood for tens of thousands of Palestinians.
- ❖ ACRI has two separate petitions challenging the permit regime and the gate system currently pending before the High Court of Justice.

REVOCATION OF RESIDENCY STATUS

Revoking the Residency Status of Palestinian Legislative Council (PLC) Members and a Palestinian Minister from East Jerusalem

- ❖ In May 2006, 3 members of the Palestinian Legislative Council (PLC) and a Palestinian Minister who had been elected to the Council as Hamas representatives were informed that unless they resigned from their positions, their East Jerusalem residency would be revoked by an administrative order of the Interior Minister.
- ❖ The Minister of the Interior based the revocations on the fact that the men had run and been elected as Hamas members of the PLC and are therefore considered to have "breached the trust" with regard to Israel. The four men petitioned the Israeli Supreme Court, and ACRI together with Adalah requested to submit an amicus brief. The Supreme Court granted the request and the amicus brief will be filed by the two organizations in the coming period.

❖ State authorities are entitled, and are even obligated to act against any individual who threatens state security and public safety, and Israeli law contains a number of law enforcement measures that are far less severe than the revocation of residency status to redress these issues.

❖ However, the authority to revoke residency status for reasons of "breach of trust", with regard to the State, is an extreme power that has no comparable precedent in any other enlightened state.

❖ The men's election to the Palestinian Legislative Council cannot be the basis for revoking their residency status and deporting them from their homes.