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## Field Report: Adalah, the Legal Center for Arab Minority Rights in Israel

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## FIELD REPORT

**Adalah, the Legal Center for Arab Minority Rights in Israel**

by Sarah C. Aird\*

Since the Israeli government passed the National Planning and Building Law in 1965, life in the Arab-Israeli village of Hussaniya has been particularly difficult. The law effectively turned Hussaniya and tens of other villages like it into “unrecognized villages,” the validity of which the Israeli government refuses to recognize. In essence, upon passage of this legislation, the government declared these communities illegal and claimed the land as state property. Although the government has not forcibly removed residents from these designated areas, it has created almost unbearable conditions for more than 60,000 Arab-Israeli villagers. The government’s expectation was that these residents would eventually leave of their own accord, opening the region for Jewish-Israeli settlements.

The Israeli government’s refusal to officially recognize these communities

**Hussaniya residents and other Arab-Israelis are finally challenging the status quo with the help of *Adalah*, the Legal Center for Arab Minority Rights in Israel, the first Arab-run legal center in Israel.**

for more than 30 years has caused the residents tremendous hardship. The government rarely provides even the most limited services to these areas and made it illegal for private agencies to do so. As a consequence, residents in the unrecognized villages must survive without running water, electricity, sewage treatment facilities, schools, and health centers. In addition, villagers cannot receive mail at their homes because they are denied the right to use their local addresses. Finally, they are not represented in local government, and, although they may vote in national elections, the government makes this difficult by preventing them from claiming residency where they live.

After decades of suffering such unjust government policies, Hussaniya residents and other Arab-Israelis are finally challenging the status quo with

the help of *Adalah*, the Legal Center for Arab Minority Rights in Israel, the first Arab-run legal center in Israel. *Adalah* is making important headway in the struggle for gaining legal rights for Arab-Israelis. For example, in 1997, *Adalah* filed two Supreme Court petitions that challenged government policies relating to unrecognized villages. In one petition, *Adalah* argued that the law obliges the government to provide preventative health services to all Israeli citizens regardless of whether their habitation is officially recognized. In the second petition, *Adalah* decried the government’s policy of prohibiting select Israeli citizens from enjoying their right to an address. As a result of these petitions and other activities that *Adalah* has spearheaded, residents of the unrecognized villages are asserting the legitimacy of these communities for the first time, challenging government policy before Israel’s highest court.

Hassan Jabareen, the Arab-Israeli founder of *Adalah*, established the organization in order to provide just such assistance to Arab-Israeli individuals and communities. Jabareen, who received his LL.M. from American University’s Washington College of Law (WCL), first considered establishing *Adalah* when he was a fellow at WCL’s New Israel Fund Law Fellows Program. The Fellows Program, which WCL professor Herman Schwartz established in 1983, brings Israeli lawyers to the law school to gain experience in the fields of civil liberties and civil rights law through

**Arab-Israelis throughout the country encounter official discrimination.**

classes and internships in the Washington, D.C. area. After one year of study and work in the U.S., the participants return to Israel and devote one year to completing internships with local civil rights organizations.

Jabareen conceived of the idea to create a legal center that would focus on the legal needs of the Arab-Israeli minority in Israel, which constitutes approximately 20% of the country’s

total population. He decided to name the organization *Adalah*, which means justice in Arabic. When he returned to Israel, he collaborated with an American law student from Georgetown University, Rina Rosenberg, and, together,

**At least formally, government education, health, and social services are meant to benefit all citizens.**

they established this successful and innovative legal center. As part of its efforts, *Adalah* brings discrimination cases before Israeli courts, provides legal advice to Arab organizations, facilitates and organizes events concerning issues relevant to the Arab-Israeli community, and trains young Arab-Israeli lawyers and law students by providing internship opportunities at *Adalah*.

The need for *Adalah* is immense. Although Arab-Israelis living in unrecognized villages experience the effects of some of the most egregious and discriminatory policies of the Israeli government, Arab-Israelis throughout the country encounter official discrimination. This problem partially results from the fact that Israel has neither a formal written constitution, nor a bill of rights that effectively protects the interests of minority groups. Furthermore, although the Supreme Court shows a willingness to protect individual rights, it fails to recognize and protect Arab-Israelis as a national minority. Finally, instead of addressing Arab-Israelis as a coherent group, state policy characterizes Arab-Israeli citizens as members of religious minorities, and by so doing, de-emphasizes the history of Arabs as Palestinians prior to the creation of the state of Israel in 1948.

Another reason for the official discrimination against Israeli citizens of Arab descent is that Israel is a country with a dual personality. On the one hand, it is a formal democracy which vests citizens with the right to elect their representatives and promotes the concept of equal rights for all. Arab-Israelis, in this context, have the same

continued on page 17



War Crimes Update, continued from previous page

Prosecution's attempt to join the cases of six government officials from the Butare prefecture, including Ndayambaje. In addition to Ndayambaje, the other officials are Pauline Nyiramasuhuko (former minister of Women's Development and Family Welfare), Arsene Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, and Joseph Kanyabashi. The recess is expected to be lengthy.

#### **Ferdinand Nahimana**

On June 26, 1998, Trial Chamber I heard preliminary motions in the case of Ferdinand Nahimana, a former senior officer of *Radio Television Libre des Mille Collines*. Defense counsel Jean-Marie Biju Duval asked the Chamber to suspend proceedings against the accused and order his release, due to defects in the indictment.

#### **Georges Rutaganda**

Since Rutaganda's trial began in March 1998, it has been repeatedly

delayed because of his poor health. The trial was postponed on August 11, 1998, because his Defense attorney, Tiphaine Dickson, was ill and one of the judges was absent. In addition, his defense attorney reported difficulty in securing defense witnesses without special protection measures for the witnesses and their families.

#### **Alphonse Nteziryayo**

Alphonse Nteziryayo was arrested in Burkina Faso on April 24, 1998, and transferred to the Arusha Detention Facility on May 21, 1998. Nteziryayo is a former commanding officer of the Military Police and later became prefect of Butare on June 17, 1994. He succeeded Sylvain Nsabimana, with whom he is jointly charged, as prefect. Nteziryayo allegedly ordered and took part in the murder of Tutsis while in this position. Allegedly, he supervised militia training, distributed weapons in communes, and directly and publicly incited the population to massacre the Tutsis in Butare prefecture.

He was indicted by the ICTR for genocide, direct and public incitement to genocide, complicity in genocide, crimes against humanity, and violations of Article 3 Common to the Geneva Conventions and of the Additional Protocol II. His case was joined with five other government officials from Butare prefecture and was adjourned while waiting for the Court of Appeals to rule on the joinder.

#### **Theoneste Basagora**

The joint trial of Theoneste Basagora and three other military leaders faces delay because Defense lawyers oppose the joinder of the cases and are protesting a request to change judges.

#### **Administrative Matters**

The ICTR was aided by the approval of additional funds by the UN General Assembly in Resolution 1165. ☉

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*Adalah*, continued from page 12

rights as Jewish-Israelis to vote, establish their own political parties, worship, and express themselves freely. In addition, at least formally, government education, health, and social services are meant to benefit all citizens.

On the other hand, Israel was founded in order to provide a haven for Jews of all nationalities. Based on this premise, many Israeli laws privilege Jewish-Israelis and discriminate against the approximately 1,000,000 citizens of Arab descent. *Adalah* identified 20 laws as discriminatory against Arab-Israelis in its report to the UN Committee on the Elimination of Racial Discrimination (CERD). These laws create a situation in which Arab-Israelis experience *de jure* inequality within their own country. One of these laws is the Law of Return, which allows any person of Jewish descent to immigrate to Israel and acquire citizenship automatically. This policy accomplishes the state's goal of providing a homeland for the Jewish people. The Law of Return causes hardships, however, for many displaced Palestinians who wish to return to the region that was their home prior to the establishment of Israel because they, unlike Jewish people, are not entitled to automatic grants of citizenship. As a result, Palestinians who fled or were expelled from what is now Israeli land

during the 1948 war must now meet a set of criteria to return and be recognized as Israeli citizens. Additionally, the law does not permit family members of Arab-Israelis to reunite with their relatives and immigrate to the country with ease. Instead, it is left to the discretion of the Minister of the Interior to decide who shall be allowed to become a citizen, and the ministry expressed its preference for offering residency status, not citizenship, to non-Jews.

Since its founding in November 1996, *Adalah* staff members have worked at a vigorous pace to challenge these prejudicial laws and are achieving an impressive number of accomplishments. For example, during the first 18 months of its existence, *Adalah* filed four petitions with the Supreme Court regarding government funding for religious institutions, the rights of unrecognized villages, the right of Arab-Israeli children to have school transportation and access to academic enrichment programs, and language rights. The group also filed one petition at the district court level, filed a number of pre-petitions to the Attorney General's office, and presented a report to CERD that countered official state information on the treatment of ethnic and racial minorities in Israel. This was the first such report that an Arab non-governmental organization had produced. During this time, *Adalah* also sent letters to government min-

istries and offices detailing the legal issues involved in discriminatory policies and demanded action by those institutions, established links with numerous non-governmental organizations both in Israel and abroad, participated in several academic conferences, sponsored a legal seminar series, and trained several recent law school graduates. The organization focused its energies, in particular, on the following nine topics: land and housing rights, employment rights, education rights, language rights, cultural rights, religious rights, rights of unrecognized Arab-Israeli villages, women's rights, and the rights of Arab-Israeli institutions to fair government budget allocations.

It remains to be seen whether the status of the residents of Hussaniya and the other unrecognized villages will change any time soon, and it is unclear for how much longer Arab-Israelis will continue to experience the effects of discriminatory Israeli laws and policies. It is certain, however, that *Adalah's* efforts are leading the country further down the path of true democracy, toward a future that treats all citizens as equals regardless of ethnicity, religion, or race. ☉

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