



Adalah vs The state of Israel¹

ABSTRACT

Since its inception in July 2005, the BDS movement has sought to promote boycotts, divestment and sanctions against the State of Israel with the objective of delegitimizing its existence as a Jewish state. A significant part of the BDS movement's strategy is the transformation of Israel into an international pariah nation by means of its portrayal as an apartheid state deliberately and institutionally discriminating against its Arab citizens.

Perversely, one of the bodies contributing to this propaganda is actually an Israeli organization, 'Adalah – the Legal Center for Arab Minority Rights in Israel'. Adalah is persistent in claiming that the State of Israel promotes a discriminatory policy against its Arab citizens.

This report surveys in detail the list of laws published on the Adalah website as discriminatory, and examines the validity of the organization's claims regarding the existence of discrimination against Israeli Arab citizens. The report's findings reveal that Adalah elects to adopt a strategy of distorting reality with deliberately biased presentations in order to defame Israel as guilty of enforcing dozens of discriminatory laws.

The findings of this report, presented in detail in the summary chapter, clearly demonstrate that for a variety of reasons, the claims promoted by Adalah are, in essence, fundamentally groundless:

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1. The overwhelming majority of the laws featured in the list (53 out of 57) do not even relate to the citizens' ethnic origins and those that do, are designed to prevent and avoid discrimination. For example, the Law and Administration Ordinance (1948) that defines the country's official rest days, and the Law for Using the Hebrew Date, both explicitly exclude institutions and authorities that serve non-Jewish populations for whom the law provides for definitions and procedures appropriate for their specific needs.
2. In 21 cases, Adalah's claims of discrimination stem from the organization's extremist stance that rejects the nature of Israel as a nation state in general and as the nation state of the Jewish people in particular. For example, the Yad Ben-Zvi Law is defined as a discriminatory law because of the institution's objective of promoting Zionist ideals.
3. 18 of the laws reflect customs in other Western democracies whose democratic character no one would disparage. For example, according to Adalah, the flag constitutes a discriminatory law. Needless to say, this unfounded reasoning would mean that any country, the flag of which bears a cross or crescent discriminates against its non-Christian or non-Muslim minorities. A more in-depth comparison between the laws frequently found that Israeli legislation is actually characterized by a higher degree of tolerance for its national minorities.
4. In at least 13 cases, a large disparity exists between the explicit content of the laws and the biased (and sometimes warped) interpretation accorded to them by Adalah. In some instances the claimed discrimination is difficult to identify. For example, the Golan Heights Law is considered discriminatory due to its objective of "according a legal basis for the implementation of Israeli law on the territory of the Golan Heights conquered by Israel". It would seem that only Adalah is capable of explaining a law intended to grant equal rights to all residents of the Golan Heights as being discriminatory.
5. 8 laws are intended to protect the security of all Israeli citizens regardless of religion, race or gender. Included in these laws are a number of legislative amendments to the Criminal Procedure Law and the Prisons Ordinance aimed at assisting the security forces in preventing terror attacks. These laws adversely affect only those clearly suspected of engaging in terror activity without distinguishing between Jews and Arabs. In effect, this very claim is woefully discriminatory because it presumes that Arab citizens of Israel are generally hostile and prone to terror activities.
6. 7 of the laws do not even relate to Israel's Arab citizens but rather to those non-citizen individuals towards whom the State is not obligated to act with equality.

The absurdity in Adalah's approach can be demonstrated by the example of the Trading with the Enemy Act (a law evolving from British Mandatory law) being included in the list of discriminatory laws because "the countries declared as such (Iran, Syria and Lebanon) are Arab and/or Muslim states". Presumably the law could be remedied by adding other, non-Muslim and non-Arab enemy states.

7. In the case of some of the laws mentioned in the list, the supposed discrimination in question actually affected the Jewish majority and not the Arab minority. For example, Clause 7a of the Basic Law: the Knesset, the objective of which is to prevent the candidacy of political parties acting against the existence of the State of Israel as a Jewish and democratic state, has been implemented only against Jewish parties on grounds of anti-democratic objectives. Similarly, amendments to the Absorption of Discharged Soldiers Law are indicted by Adalah for discriminating in favor of Jewish citizens, but these citizens are the ones specifically obligated to serve three years of military service for sub-minimum compensation and living conditions, thus postponing their university education and professional advancement. It is the Arab citizen who enjoys the option of exemption from military service altogether or alternatively, of volunteering for national civil service which does not place them in harms way but which nevertheless affords them the same benefits awarded to discharged soldiers.
8. In a number of cases, Adalah misuses objective crime statistics to claim discrimination. According to this logic, if members of the Arab sector of the population are the main criminal violators of a certain law, then that particular law perforce is deemed racist. This could apply to laws against theft of property, against sex crimes or against driving through red lights. The constructive and proper solution, to disproportionate violations is not annulment of necessary laws, of course, but rather, educating and encouraging observance of the law among all sectors of the population-without distinction or favoritism.

Fundamentally, an in-depth examination of the so-called "discriminatory" laws listed by Adalah demonstrates that the laws promoting Israel as the nation state of the Jewish people do not discriminate against its Arab citizens or diminish their civil rights. Rather, they assist in promoting Israel as a more Jewish and a more democratic state striving for the welfare of all its citizens. Any reasonable and fair comparison of Israel's laws with those of the overwhelming number of other democratic states constituting nation states of majority ethnic groups would conclude that Israel is a model for promoting the democratic rights of all of its citizens.

SUMMARY

In this paper we have examined the root of the claims of discrimination leveled at the State of Israel by Adalah on the purported basis of its own compiled "list of discriminatory laws". Adalah claims that these laws manifest Israel's record of discrimination against its minority (Arab) citizens.

A detailed and in-depth survey of each of these laws demonstrates that **Adalah's claims are riddled with serious inaccuracies and consciously ignores the fact that Israel, like the overwhelming majority of recognized democracies, is a nation state with a majority ethnic group recognized by law and public policy. In this instance, Israel is the nation state of the Jewish people. All nation states promote their respective identities while the democratic nation states, such as Israel, also preserve the civil and human rights of all citizens, including its minorities. The report demonstrates how Adalah promotes patently false claims and manipulates its presentation of facts, from incorrect quotations to biased interpretation. It also ignores the State of Israel's basic security needs. The overwhelming majority of the laws on its compiled list of supposedly discriminatory laws (53 out of 57), do not even relate to ethnic identity and in no way constitute discrimination.**²

A significant portion of Adalah's claims of discrimination stems from the organization's extremist stance that negates the nature of the State of Israel as a nation state in general and specifically as that of the Jewish people. 21 examples of laws being included in Adalah's list fall under this basic conceptual distortion.³

A comparison to western countries, mainly to those in Europe and to the U.S.A, revealed that contrary to Adalah's claim, Israel's laws conform to advanced western standards. Clear parallels can be found in legislation from various western countries to 18 of the

² Of the 57 laws, only 4 relate to the citizens' ethnic origin: the Law for Using the Hebrew Date, the Law and Administration Ordinance, the Jewish Religious Services Law and the Admissions Committees Law. These laws do not implement discrimination but rather forbid ethnic discrimination (the Admissions Committees Law) and promote equal and multi-cultural policy. For example, the Law for Using the Hebrew Date permits every local council to use the date format most appropriate for its dominant ethnic group.

³ The State Seal Law-1949; The State Flag, Emblem and Anthem Law-1949; The Law for Using the Hebrew Date-1998; Law and Administration Ordinance (Clause 18a- Rest Days)-1948; The Knesset Law-1994; The State Education Law-1953; The Foundations of Law Act-1980; The Interpretation Law-1981; The Law of Return-1950; Law for Prevention of Damage to State of Israel through Boycott-2011; The Yad Ben-Zvi Law-1969; The Mikve Yisrael Agricultural School Law-1976; The Zionist Organization-Jewish Agency for Israel Status Law-1952; The Basic Law: the Knesset-1952, Amendments 9, 35, 39; The Israeli Political Parties Law, Amendment 12; Amendment 40 to The Budget Foundations Law (Nakba Law)-2011; The Jewish National Fund Law-1953; The Israel Broadcasting Authority Law-1965; The Second Authority for Television and Radio Law-1990.

laws⁴ on Adalah's list of supposedly discriminatory laws. In all such cases, Israel's law meets the same standard as that of the parallel law, or exceeds it. Thus, in many cases, the European or American law provides harsher punishment for the infraction involved, which only highlights how preposterous and biased are Adalah's claim.

13 laws⁵ on the list are irrelevant to the issue of discrimination due to manipulative and invalid presentation of the law itself. For example, the religious laws cited are not discriminatory but are equal and parallel ordinances, rulings and laws relating to the Arab (Muslim, Christian) and Druze populations. Further claims against these laws result from either a misunderstanding of the law or from deliberate disregard of accepted legal principles such as the statutes of limitations.

13 of the laws⁶ are aimed at promoting selected values within Israeli society. It is not only undoubtedly an accepted and legitimate objective but also the undisputed right of any sovereign country to allocate its resources in order to promote its perceived interests. These laws relate to issues such as the granting of benefits to residents of certain geographical areas according to accepted and transparent criteria, the establishment of public broadcast authorities, the healing of social rifts (such as in the period following the withdrawal from Gaza), the reduction of funding for entities conducting activities that negate national principles, the ban on candidacy for the Knesset for bodies advocating the destruction of the State, the expropriation of lands for public needs in exchange for full compensation, the granting of benefits to historic institutions responsible for the

⁴ The State Seal Law-1949; The State Flag, Emblem and Anthem Law-1949; The Law for Using the Hebrew Date-1998; Law and Administration Ordinance (Clause 18a- Rest Days)-1948; The Knesset Law-1994; The State Education Law-1953; The Foundations of Law Act-1980; The Interpretation Law-1981; The Law of Return-1950; The Nationality Law-1952; Amendment 10 to The Nationality Law (Cancellation of citizenship due to criminal conviction)-2011; Amendment 7 to The Absorption of Discharged Soldiers Law-2008; Amendment 12 to The Absorption of Discharged Soldiers Law-2010; The Law for Prevention of Damage to State of Israel through Boycott-2011; Clause 157a of the Planning and Building Law (Restriction of Electricity, Water and Telephone)-1965; Amendment 3 to the Israel Lands Law-2010; The Absentees' Property Law-1950.

⁵ The Golan Heights Law-1981; Basic Law: Jerusalem, Capital of Israel-1980; The Jewish Religious Services Law-1971; The Protection of Holy Places Law-1967; The Law to Strip Payments from a Current or Former Member of Knesset due to a Crime-2011; Amendment 6 to the Local Authorities Law-2009; Amendment 191 to The Income Tax Ordinance-2012; The Non-Profit Association Financing Law-2011; The Planning and Building Law-1965; The Amendment to the Cooperative Associations Order Law (No. 8)- The Admissions Committees Law-2011; Amendment 1 to The Public Lands (Removal of Squatters) Law-2005; Basic Law: Israel Lands-1960; The Israel Lands Authority Law-1960.

⁶ The Yad Ben-Zvi Law-1969; The Mikve Yisrael Agricultural School Law-1976; The Zionist Organization-Jewish Agency for Israel Status Law-1952; The Amnesty Law-2010; Basic Law: The Knesset, Amendments 9, 35, 39; The Israeli Political Parties Law, Amendment 12; Amendment 40 to The Budget Foundations Law (Nakba Law)-2011; The Economic Efficiency Law (Regions of National Priority)-2009; Amendment 4 to The Authority for the Development of the Negev (Bedouin Settlements) Law-2010; The Jewish National Fund Law-1953; The Land Acquisition Law-1953; The Broadcasting Authority Law-1965; The Second Authority for Television and Radio Law-1990.

establishment of the State, and the award of benefits to joint agricultural-tourist initiatives in the Negev Desert that promote tourism and agriculture.

8 laws⁷ are essential security laws enabling the state to protect the lives of its citizens- Jews and Arabs alike. These laws forbid terror activity (by means of emergency ordinances), support of terror (by lawyers abusing their office), adoption of citizenship of an enemy state and the engagement in trade with an enemy country. In addition, these laws enable the more efficient investigation of terror suspects (by allowing the extension of detention and the easing of the requirement to document investigations), and permit the allocation of training areas for the army. Protecting the security of its citizens is the basic obligation of any democratic country and in light of the complex security situation faced by the State of Israel, it is clear that the need exists for the implementation of defense mechanisms against terror threats, both internal and external. It is therefore disingenuous to claim that these laws, which are not directed against any ethnically defined group, are not really necessary and are really designed to discriminate against specific groups of citizens rather than to defend the life and property of all citizens.

7 additional laws⁸ do not even relate to Israeli citizens and the claim that they discriminate or adversely affect Israel's Arab citizens is patently fallacious.

We conclude therefore that by an objective standard of analysis Adalah's claims are essentially unfounded and that Israel acts as a democratic nation state respecting the rights of its minorities. Adalah's claims that the State of Israel is a country that systematically discriminates against minority citizens is baseless and made in bad faith. A fair analysis leads to the conclusion that in many respects, Israel is more protective of minority rights than a large number of western countries.

Moreover, an in-depth examination of Adalah's "discriminatory" laws in the context of internationally accepted practices leads to the important conclusion that not every preference constitutes discrimination. Indeed, most of the laws cited in Adalah's database

⁷ Amendment 4 to The Criminal Procedure Law (Investigation of Suspects)-2008; Amendment 6 to The Criminal Procedure Law (Investigation of Suspects)-2012; Amendment to Prisons Ordinance Law (Amendment 40)-2011; Amendment to Prisons Ordinance Law (Amendment 43)-2012; The Criminal Procedure Law (Detention of Suspect in Security Offence)-2006; Amendment 2 to The Criminal Procedure Law (Detention of Suspect in Security Offence)-2010; Basic Law:Government-1992; Trading With Enemy Ordinance-1939.

⁸ The Nationality Law-1952; The Citizenship and Entrance to Israel (Family Reunification) Law-2003; The Entrance to Israel Law-1952; Amendment 8 to Civil Damages Ordinance (State Responsibility)-2012; Defense Regulations (Emergency) Regulation 125 (Closed Areas)-1945; Israel Lands law (Amendment 3)-2011; Amendment 7 to The Israel Lands Authority Law-2009.

do not discriminate against Israeli Arabs at all but rather, assist in promoting Israel as a more Jewish and democratic country actively striving for the welfare of all its citizens.

Adalah's list is not a mere academic exercise: It is a deliberate attempt to defame Israel and to portray it as an apartheid state discriminating against its Arab citizens. Adalah's claims are trumpeted by members of the BDS movement seeking to promote boycotts, divestment and the imposition of sanctions on the State of Israel (and not just the settlements in Judea and Samaria) with the clear objective of undermining and even negating its existence as the nation state of the Jewish people.

A significant thrust of the BDS movement's strategy is the attempt to transform Israel into an international pariah state by depicting it as an apartheid state deliberately and institutionally discriminating against its Arab citizens. But while proclaiming itself an Israeli organization seeking to make the Israeli state better by promoting the rights of (some of) Israel's citizens, its real purpose seems to be aimed at undermining the legitimization and continued flourishing of the State of Israel itself. We submit that this conclusion is logically compelling from a reasoned analysis the manipulated and systematically flawed compilation of Adalah's lies of "discriminatory laws".