

**Adalah and Association for Civil Rights in Israel v Tel Aviv Municipality and ors, Original petition to the High Court of Justice, HCJ 4112/99; 56(5) PD 393; ILDC 13 (IL 2002)
25 July 2002**

Parties:	Adalah—Legal Center for Arab Minority Rights in Israel, Association for Civil Rights in Israel Tel Aviv Municipality, Ramla Municipality, Lod Municipality, Nazareth Illit Municipality, Attorney General
Date of Decision:	25 July 2002
Jurisdiction/Arbitral Institution/ Court:	Israel, Supreme Court sitting as the High Court of Justice
Judges/Arbitrators:	A Barak (President); M Cheshin; D Dorner
Procedural Stage:	Original petition to the High Court of Justice
OUP Reference:	ILDC 13 (IL 2002)

Decision – English translation

The presiding judge, A. Barak

A. Barak

Does the municipality have a duty, when it contains an Arab minority, to use the Arabic language — alongside the Hebrew language — in all municipal signage? This is the question that has been put before us in this petition.

1. The petition deals with municipal signage that is controlled by the respondents. What typifies these respondents is that they have in their midst an Arab minority (6% of the residents of Tel Aviv-Yafo [Tel-Aviv-Jaffa], 19% of the residents of Ramla [Ramleh], 22% of the residents of Lod [Lydda] and 13% of the residents of Nazrat Illit [Upper Nazareth]). The petitioners have argued that most of the municipal signage controlled by the respondents includes writing in the Hebrew language and writing in the English language, but does not include writing in the Arabic language. The petitioners applied in this matter to the respondents, indicating that, in their opinion, all of the municipal signage out to display writing in the Arabic language. They did not receive a positive answer. Consequently, we have the petition that is before us. It asks us to rule that the respondents have a duty to use the Arabic language — alongside Hebrew — in all the directional, guidance, warning, instructional and informational signs (hereinafter — the municipal signage) that is controlled by them. According to the petitioners, the origin of this obligation is, primarily, the fact that Arabic is an official language in Israel, as stated in no. 82 of the Orders in Council for Palestine, 1922–1947 (hereinafter “Orders in Council, 1922”). This obligation is also enforced under international law, as resulting from the right to equality and human dignity. The petitioners add that a suitable approach to public services is part of the public interest, since the understanding of municipal signage is essential for all citizens and takes priority in the preservation of public order.

2. In preparation for a deliberation as to whether to issue an injunction, the reactions of the respondents were sought. The Tel Aviv-Yafo municipality (respondent no. 1) indicated that without being required to study the judicial aspects thereof, and in consideration of the Arab residents of the city, the municipality was ready to agree to adding writing in the Arabic language to the directional, guidance, warning, instructional and informational signs, but only in a district in which there was a large concentration of Arabs. These signs would be added over a five-year period. The Ramla municipality (respondent no. 2) indicated that it had no obligation to introduce writing in Arabic on municipal signage. It was willing, however, to add writing in Arabic to the directional signs at central traffic arteries in the town. It was also willing to add writing in Arabic to the municipal institutions serving all the residents of the town (such as the town hall and the municipal library). Finally, it was ready to add writing in Arabic to the street names in districts in which there was a concentration of Arabs and on the central streets thereof. The municipality would work to introduce this arrangement within five years. The Lod municipality (respondent no. 3) indicated that there was no writing in Arabic in the town on municipal signage and it had no duty to provide such signage. However, the municipality would work to add signage in Arabic on street signs in the Arab districts and in mixed districts, as well as signage on their public institutions. It also indicated that writing in Arabic would be provided in future on signage in municipal institutions and on directional signs at the central traffic arteries. Finally, Arabic writing would be added to street signs and directional

affairs, even if I assume that the municipal authority falls within the definition of “the official notices” — something that is by no means free of doubt, and I ask that this be left as something that requires examination — there is nothing in the regulations of clause 82 of the Orders in Council, 1922 that places an obligation upon the local and municipal authorities to publish municipal signposts in the official languages, and this is because the areas in which there was an obligation so to publish had not yet been determined.

13. The conclusion is, therefore, that clause 82 of the Orders in Council, 1922 does not constitute a direct external normative source from which an obligation can be inferred that Arabic must be written on the municipal signposts. This does not mean that clause 82 of the Orders in Council, 1922 has no importance in solving the problem before us. The clause in question lays down a regulation of great importance. From the force thereof, it has been determined that Arabic is an official language. It is thus granted “an especially high status” (Judge M. Cheshin, civil appeal 12/99 *Mari v. Sabak*, judgement 53(2) 128, 142). The law applicable to them [sic] is not that of other languages spoken by citizens of the State or residents thereof. This special status has direct repercussions as to the rights and duties in relation to the central language. Nevertheless this special status does not merely exist through the rights and obligations directly resulting therefrom. The official status of a language projects itself into the body of Israeli law and affects its operation. This influence is manifested, among other things, in the consideration given to the official status of a language from among the range of considerations that an authority needs to consider when exercising its powers. The “geometrical” place of this influence is part of the interpretation of the powers of the authority on the basis of its purpose. This is the second (internal) source to which we shall now turn.

Internal source: the authority’s interpretation of the authority to display signs

14. In the absence of an external source from which the duty derives for writing in Arabic on the municipal signs, we return to the regulations of the law granting the municipality the power to display municipal notices. This is a power which is subject to evaluation. Such a consideration is never decisive (see application to the High Court of Justice 241/60 *Kardosh v. Registrar of Companies*, judgement xvi 1151; additional judgement 16/61 *Registrar of Companies v. Kardosh* judgement xvi 1209; application to the High Court of Justice 6741/99 *Arnon Yekutieli v. Minister of the Interior* judgement lv(3) 673, 682–683). This is a limited consideration. It is limited by the special purposes based on the authorising legislation; it is also limited by the basic values and basic principles of the system of law which constitutes the general purpose of any item of legislation (see application to the High Court of Justice 953/87 *Poraz v. Tel Aviv-Yafo Municipality*, judgement xxxii(2) 309, 329). What can be concluded from all this concerning writing in Arabic as well on municipal signage?

Special purposes

15. Behind the power to display municipal signage and in everything connected with the purpose thereof, lies the need, in the public interest, to provide a suitable and reliable service. Municipal signage needs to be displayed in such a way that the residents of the town can find their way around the town and its streets, find information about municipal services, and be warned of traffic and other dangers. From this, it can be concluded — as the attorney-general has concluded, and as the respondents agreed with him — that in those parts of the town in which there is a concentration of the Arab minority, it must be ensured that, alongside the writing in Hebrew, writing in Arabic is introduced. Signage is designed to “speak” to them, so it is natural that it should be in a language that is understood by them. For this purpose, the conclusion that in areas outside the neighbourhoods in which there is an Arab minority but which are used by all the residents of the town, such as central arteries and main roads — Arabic writing is appropriate on municipal signs. At the same time, this special purpose also involves the need for clear and legible signage, which does not include an endless variety of details and symbols in one language or another. If we were to focus solely on these (special) purposes, we would have to deal with additional issues, such as what the rule would be if there were a concentration of speakers of another language? Does signage need to reflect the multi-faceted nature of the various languages spoken by the residents of the town? Thus, special purposes are not the only purposes that have to be taken into consideration. Alongside these considerations there are general considerations that need to be taken into account. Only the overall balance between the purposes should guide us in formulating the (final) purpose that lies at the heart of the authority to display municipal signage. As part of this purpose, the solution to the question of the signage also being in Arabic has to be determined. Let us examine these general purposes.

General purposes

16. The first general purpose that is relevant to our case is that which affects the defence of the right of a person to his/her language. The language of a person is a part of his/her personality. It is the tool that he/she uses for thinking (see G. Williams “Language and the Law”, 61 Law Q. Rev. 71 (1945)). It is the implement used for making contact with fellow humans. “Language and tongue...nature and man created them, and their purpose is to serve as a means of

communication between a person and his neighbour” (Judge M. Cheshin in supplemental criminal case judgement 2316/95 *Ganimat v. the State of Israel*, judgement xlix(4) 589, 640). I stressed this point in one of the interpretations, when I indicated:

“language is the tool by means of which we create contact with our fellow humans. But language is more than a means of communication. Language is used for thinking. Through it, we think and create concepts and pass them on to our fellow humans...but language is not only a means of communication or thinking. Language and expression are fine-tuned. Language determines the meaning of thought. Consequently, the centrality of language in the human existence, in human development in human dignity”. (Civil appeal 105/92 *Ram Engineers Contractors Ltd v. Nazrat Illit Municipality*, judgement xxxvii(5) 189, 201).

and in a similar vein, Judge M. Cheshin:

“language is designed to make contact between a person and his/her neighbour. But language is also culture. As well as history. And also ways of thinking; it is the soul, it is the person. (Criminal case judgement 2326/95 *ibid*, p 640).

Consequently, language plays a central role in the human existence of the individual and of society. Through the language, we express ourselves, our individuality and our social identity. Take a language away from someone and you have taken them away from themselves (see Reference re *Mahe v. Language Rights under Manitoba Act*, 1870 (1985) 17 D.L.R. 4th 1,19; *Mahe v. Alberta*, 68 D.L.R. 4th 69; *Ford v. Quebec* (1988) 54 D.L.R. 4th, 577).

17. Language acquires a special importance when the issue is the language of a minority group. Thus, language reflects the culture and tradition. It is the expression of social pluralism (see “Why We should Be Concerned about Language Rights”, *Language and State, the Law and Politics of Identity* 290 (1989). From this, the approach is that a minority has the right of language freedom (see Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (no. 47/135, 18.12.1992, Art. 1(1); Framework Convention for the Protection of National Minorities (Council of Europe, no. 157, 1.2.1995, Art.14); European Charter for Regional or Minority Languages (1992). See also, as an expansion on this, M. Tabory, “Language Rights as Human Rights”, 10 I.Y.H.R. (1980) 167.

18. The Declaration of Independence determines that the State of Israel “shall ensure freedom of religion, conscience, language and culture”. In particular, freedom of expression in the language [the person] desires. He/she has the freedom to express his/her thoughts (personal, social and commercial) in whichever language he/she desires” (civil appeal 105/92, *ibid.*, p. 202). This freedom is determined through the legal freedom of freedom of expression and through the legal right to human dignity (see civil appeal 294/91 *Hevra Kaddisha Gemilut Hessed shel Emet “Kehillat Yerushalayim” v. Kestenbaum*, judgement xlix(2) 464, 520). As against this freedom of the individual there is the obligation of the governing authority to protect a freedom. It should be pointed out that in a number of legislations there are specific regulations in this regard (see, for example, clause 16 of the Canadian Charter of Rights and Freedoms; Clause 30 of the Belgian Constitution; clause 2 of the French Constitution; clause 18 of the Swiss Constitution. See also clause 27 of the International Covenant on Civil and Political Rights, 1966, which Israel has ratified).

19. The *second* general purpose which must be taken into account in the case before us is ensuring equality. It is well-known that equality is one of the basic values of the State. It counts among the basics of social existence. It is one of the pillars of a democracy. It is the “beginning of the beginnings” (Judge M. Cheshin, petition to the High Court, 7111/95 *Local Authority Centre v. the Knesset*, judgement iii(3) 485, 501). An attack on equality is liable to lead to humiliation and to an attack on human dignity (see Judge Dorner, application to the High Court of Justice, 4541/94 *Miller v. Minister of Defence*, judgement xxxix(4) 94, 132). Of course, this is a situation in which the discrimination is due to the religion or race of the person. Such “generic” discrimination “damages mankind’s human dignity” (Judge M. Cheshin in application to the High Court of Justice 2671/98 *Women’s Political Lobby in Israel v. the Minister of Work and Leisure*. Judgement xlii(3) 630, 658, see Zamir and Sobel, “Ha-Shivyon bifnei Ha-Hok” [Equality before the Law], *Mishpat u-Mimshal* [Law and Governance] v, 165 (1999)). The principle of equality applies to all of the government’s actions and all the actions of any government. In every case, it applies within the boundaries of local government in general (see application to the High Court of Justice 262/2 *Peretz v. Kefar Shemariahu*, judgement xvi 2101) and in the context of its judgements in relation to its authority in particular (see application to the High Court of Justice 750/82 *Naama — Pirsum beShilut Ltd. v. the Mayor of Tel Aviv*, judgement 37(3) 772; application to the High Court of Justice 6396/96 *Zakin v. the Mayor of Beer-Sheva* judgement liii(3) 289). The fundamental *de facto* interpretation of this is that the (local) authority is required to ensure egalitarian use of its services (see application to the High Court of Justice 7081/93 *Botzer v. the Maccabim Reot Local Council*, judgement l(1) 19, 25). In a place in which a

section of the public is unable to understand the municipal signage, its rights to equal enjoyment of the municipal services is adversely affected. Consequently, where the language has great importance to the individual and his/her development, the possibility must be ensured that the individual as an individual shall not be restricted as a result of his/her language (see Dunber, "Minority Language Rights in International Law" *Comp. L.Q.*, 40, 93, 107 (2001) 10, 50 *Int. & Lav. V. Nicholas*, 414 U.S. 563, 567 (1974; *Sandoval v. Hagan*, 197 F. 3d484 (1999)).

20. The third general purpose to be taken into account is the status of the Hebrew language. The State of Israel is a "Jewish and democratic" state (see clause 1a of the Foundation Law: the dignity and freedom of man). One of the important expressions of this character of the State of Israel is that fact that its main language is Hebrew (see application to the High Court of Justice 6698/95 *Ka'adan v. Israel Lands Authority*, judgement lix(1) 281; see also D. Kretzmer, *The Legal Status of the Arabs in Israel* 165 (1990)). Consequently "the establishment of the Hebrew language, its development, prosperity and predomination are a central value of the State of Israel" (civil appeal 105/92 *ibid.*, p. 208). Any action of the (municipal) government which might adversely affect the Hebrew language harms one of the fundamental principles of the State of Israel, and opposes the (general) purpose of the law granting the (local) authority the power to take action.

21. The fourth general purpose which should be taken into consideration is recognition of the importance of language as a component of national unity and its definition as a sovereign state. Language is not merely an expression of the identity of the individual. Language is also the expression of the identity of the collective. It is the basis which connects individuals in a single society. It develops social cohesion in Israel. Hebrew is the power that unites us as the children of a single State. Hebrew is not the prerogative of one group or another in Israel. "The Hebrew language is the property of the whole nation" (civil appeal 294/91 *ibid.*, p. 518). Consequently, just as French is the language of the French and is basic in the definition of France as a sovereign state, and just as English is the language of the English and is the basis for the definition of England as a sovereign state, so Hebrew is the language of the Israelis and is the basis for Israel to be defined as a sovereign state. Furthermore, there is importance in having a single and uniform language in a state at a time when language is the tool used by members of society to communicate with each other through the individual being exposed to the collective. Consequently, the general purpose whose objective is homogeneity and unity also includes the prevention of a situation in which a "Tower of Babel" of languages would be created where people could not understand each other (and see supplementary civil case 7325/95 *Yediot Aharonot Ltd. v. Kraus*, judgement lii(3), 1, 97–98).

The balance between the purposes

22. No difficulty of interpretation arises where the purposes (special and general) all point in a single direction. The difficulty arises, as in the case before us, where there is a conflict between the various purposes. In this situation, a balance needs to be struck between the conflicting purposes. This balance must reflect the acknowledgement that the various purposes are not definitive. Thus, for instance, no specific right — as against an obligation by the state — to use any language it chooses needs to be specified. Similarly, the state does not have the definitive power — against which there stands the obligation of the individual — to force anyone to use the Hebrew language for any purpose exclusively. It is in our interest to balance the conflicting values and principles. The term "balance" is metaphorical. The metaphor of balance is backed by the understanding that the compulsion must be reasonable. The meaning of reasonableness is that all the relevant values and principles must be taken into consideration and each of them must be accorded their due weight (see application to the High Court of Justice 935/89 *Ganor v. the Attorney-General*, judgement xl4(2) 485, 513). The determination of the balance on the basis of the weight means the allocation of a social assessment as to the relative importance of the various principles at stake. This relative importance is determined by the place of the various principles and interests in the range of social principles. Thus, "the 'weighting' operation is not a physical act but a normative one designed to allocate the various considerations their place in the legal system and their social values within the general range of social values" (application to the High Court of Justice 6163/92 *Einsenberg v. the Minister of Construction and Housing*, judgement xlviii(2) 229, 264). The determination of the appropriate "positioning" of a purpose, principle or value is not a simple task. We are not asking "What is the importance of equality in our legal system?" We are asking about the importance of equality in relation to other principles which are competing for choice. But over and above this, coercion is always a function of circumstance. It always occurs in a particular context and on the basis of a *de facto* given system. We are not asking "What is the importance of equality in relation to value as regards the Hebrew language". We are asking this in relation to the specific question that requires to be decided. This question, in the case before us, is the addition of Arabic writing — added to Hebrew — on the municipal signage in the areas controlled by the respondents appearing before us. We shall now deal with this balance.

23. The question that remains to be decided in the petition before us involves the addition of writing in Arabic on municipal signage in streets that are not the main ones in parts of the town where there is no concentration of an

Arab population. A special purpose, i.e. the interest of providing a suitable and safe service, leads to the conclusion that writing in Arabic is appropriate even in these areas. As part of the service provided by the municipality, the Arab resident must be allowed to be able find his/her way even in parts of the town in which he/she does not live. An Arab resident trying to find a street in the town, to take advantage of its services or take part in an event (whether private or public) being held in a side-road, in an area in which there is no Arab population, is entitled to be enabled by means of the municipal signage to go wherever he/she chooses. Thus far, as regards the special purpose. And what about the general purpose? These are general purposes whose aim is to protect the right of a person to his/her own language (see section 16. Above) and the need to ensure equality (section 19 above) also support this conclusion. The Jewish resident can find his/her way in any part of the town by using his/her Hebrew language. The Arab resident cannot find his/her way in any part of the town by using the Arabic language. He/she is prevented from benefiting equally from the services of the municipality and, especially if Arabic is his/her only language, he/she is affected in his/her ability to express himself/herself in his/her language. His/her options for action are affected due to his/her language. And what about the other general purposes? The status of the Arabic language as a main language has not really been harmed. There is no claim — and had it been made, we would have rejected it wholeheartedly due to the heavy weight of the value attributed to the Arabic language — that in municipal areas in which there is a concentration of Arab residents the municipal signage should be written solely in Arabic. The claim is for the addition of writing in Arabic — along with the Hebrew writing — on municipal signage in the areas in which there is no significant Arab population. It is hard to see how this would hurt the Hebrew language. In any event, even if such an adverse effect existed, it is minor compared to the damage done to the right of a person to his/her language and the need to promise equality and tolerance. All that remains are the considerations as to the national identity and the definition of a sovereign state. These are also likely to be damaged if the local authority needs to determine on municipal signage the language of the residents of the town. In Israel, Israelis speak many languages. Breaking the boundaries results in the breaking of restraints that keep us within a single national framework. What is the balance between this value and values in relation to the human rights to a language, equality and tolerance?

24. The most suitable balance between the considerations of national unity and national sovereignty on the one hand and considerations of the human rights to a language on the other, equality and tolerance on the one hand, in everything dealing with the use of a language that is not Hebrew in municipal signage on streets that are not the main streets and in areas in which there is no concentration of a minority speaking the same language is by no means easy to resolve. Everyone would agree that the writing of a wide variety of languages on municipal signage should be avoided, even though within a town many people speak such languages. The Israeli speaks Hebrew and the users of other languages — and no one is preventing them from doing so in their own affairs — need to learn the Hebrew language which is the main language of Israel. Whoever does so is also promised equality. In this respect, we have not found that the signage on the streets of London, Paris or New York reflects the multitude of languages that are spoken by the residents of London, Paris and New York. However, it appears to me, that in this consideration, the writing of Arabic should be permitted in addition to Hebrew on the municipal signage. This conclusion on the one hand is due to the considerable weight to be given to values in relation to the right of a person to their language, their equality, and the tolerance to be shown to them. On the other hand, a conclusion needs to be drawn in order to prevent damage to the superior status of the Hebrew language and the minor effect caused by the use of Arabic in the municipal signage in respect of national unity and in the definition of a sovereign state. Consequently, in the case of the central signage — on roads between the towns — everyone accepts that the writing on the signs should also be in Arabic. The dispute lies within the municipal sphere. In this framework, recognition of writing in Arabic would only slightly affect the national identity of the State of Israel.

25. Against this background, the following question is likely to arise: what unites the Arabic language and why should it be treated differently from the way in which other languages are treated that are spoken by Israelis in addition to Hebrew? Does it not result from our approach that other residents of various towns might demand that the signage in their towns should also be in their language? My reply is in the negative since none of these languages are like the Arabic language. The uniqueness of the Arabic language is twofold: firstly, Arabic is the language of the largest minority in Israel, one that has been living in Israel since time immemorial. This is a language connected with historic and religious cultural identities of the Arab minority in Israel. It is the language of citizens who, despite the bitterness of the Arab-Israel dispute, want to live in Israel as loyal and equal citizens, while respecting their language and culture. The desire to ensure co-existence with dignity for the descendants of Abraham the Patriarch, through mutual tolerance and equality, justifies recognising the Arabic language on municipal signage — in those towns in which there is a large Arab minority (between 6% and 19% of the population) — beside its older sister, Hebrew (see “Hebrew and Arabic in the State of Israel: Political Aspects of the Language Issue”, 67 *Int. Soc. Lang.* 117 (1987)). Secondly, Arabic is an official language in Israel (see section 12 above). Many languages are spoken by Israelis, but only Arabic — alongside Hebrew — is an official language in Israel. Arabic therefore has a special status in Israel. This status has no direct repercussions on the case before us, but it has an indirect repercussion.

In the “officialdom” of the Arabic language “there is a preferential and unique value” (A. Saban, *Ha-Ma'amad Ha-Mishpati shel Miutim ba-Medinot Demokratiot Shesuaot: Ha-Miut Ha-Aravi be-Yisrael ve ha-Miut ha-Dover Tsarfati be-Kanada* [The Legal Status of Minorities in Divided Democratic Countries: The Arab Minority in Israel and the French-speaking Minority in Canada, 246 (doctoral thesis for the degree of doctor of laws, Hebrew University, 5760 (2000)]).

26. My conclusion is therefore that in respect of the issue which we have to deal with here, a suitable balance between the competing purposes leads to the conclusion that in the municipal signage of the respondents, there should be added, alongside the writing in Hebrew, writing in Arabic as well. There is nothing very new in this. In our capital city, Jerusalem, which has an Arab minority residing in it, all the municipal signage is in Arabic as well. This is also the case for Haifa and Acre. What is right and proper for these three cities is also suitable and right for the respondent towns. Furthermore, this approach is suited to the approach in principle of the attorney-general (see section 6 above). In his supplementary statement on behalf of the solicitor-general, it was stated:

“However, when dealing with the application of the petitioners to display municipal signage in the Arabic language within the areas of the local authorities mentioned in the petition, authorities whose population contains a considerable Arab minority, they are justified in asking for an extension of the scope of the signage in the Arabic language beyond the main roads and central streets, as well as beyond those areas within the authority that contain a large Arabic-speaking population”.

Nevertheless, the attorney-general has added that he sees no justification for taking a specific stand as to the exact scope of the signage, since this is a matter for the local authorities in question, who are familiar with the needs of the population within their areas. The attorney-general also indicated that the respondents should suggest suitable timetables for changing the signage. We shall now turn to the question of “suitable timetables”.

~~The Timetables~~

~~27. We have concluded that we should order the addition of writing in the Arabic language to all the municipal signage of the respondents. How long should it take to arrange this change? The respondents estimate that the change they propose should be performed within five to seven years. The main reasons for this are financial and logistical. In fact, I accept that time is required for the purpose of achieving the change. It cannot be done in a day. There is therefore no alternative but to defer some of the operational results of our judgement (see application to the High Court of Justice 3267/97 *Rubinstein v. the Minister of Defence*, judgement I(5) 481, application to the High Court of Justice 1715/97 *The Investment Directors' Bureau v. the Minister of Finance*, judgement II(4) 367; application to the High Court of Justice 6055/95 *Zemach v. the Minister of Defence* (not yet published). How long should the deferment be? In this matter, it seems to us that it is reasonable to determine three periods of time. The first, for new signage displayed in new streets or institutions, or the replacement of old signage that is worn out and would in any case need to be replaced by new signage. In respect of signage of this kind, it is incumbent upon the defendants to add writing in Arabic as soon as we issue our judgement. The second time frame is that which is required for changing the writing on municipal signage as suggested by the respondents, that is to say, in the main streets and municipal institutions (throughout the town), and in the side streets in areas in which there is a large Arabic-speaking population. This change — which is not part of the new signage or renewal of existing signage — should be performed within two years. Thirdly, there is the change of municipal signage on the rest of the municipal signs, as stated in our judgement. This change should be performed within an additional two years, i.e. in four years from the date on which we hand down our judgement.~~

~~Consequently, we are making the conditional order definitive, by declaring that the existing situation in respect of the writing in Arabic on the municipal signage of the respondents is unlawful, and is thus rejected. Any new signage to be added will be in Hebrew and Arabic. As for the existing signage, we are postponing the application of our judgement for two years in order to permit the introduction of Arabic writing — alongside Hebrew writing — in all municipal signage in the main streets, the municipal institutions and the areas in which there is a large Arabic-speaking population. We are also postponing the application of the judgement for an additional two years in order to permit the introduction of Arabic writing — alongside Hebrew writing — in the rest of the municipal signage of the respondents, as stated in our judgement.~~

Judge Cheshin

Judge Cheshin

~~9. The petitioners point to number 82 of the Orders in Council, 1922 and add to their claim that the wording of this regulation forces the respondent municipalities into an obligation. Let us examine this argument.~~

Kisilov

~~Chairman of the Council~~

~~c.c. Criminal Section, Israel Police, Tel Aviv~~

~~Commander of the Tel Aviv District, District Headquarters, Israel Police~~

~~The reader will form his own opinion of the identity of those listed at the bottom of the letter. Thus it can be admitted: the refusal was very quickly conveyed to the applicants.~~

~~Let us add that at the time, even the Ministry of the Interior had a policy that encouraged the Hebrew press and gave it preference over the Yiddish press. Compare: Petition to the High Court of Justice 213/52 *M. Stein, publisher of "Ha-Iton Ha-Demokrati" v. Minister of the Interior*, verdict vi, 867. Those days of language censorship are long gone but they teach that freedom of language is not something that is automatic as might have been believed at the outset.~~

~~24. We therefore find that the Declaration of Independence is not a basis for the argument of the petitioners and that it contains nothing that declares any obligation upon the respondents to write its street names in Arabic.~~

31. And what about in the case before us? Everyone would agree — no one would dissent — that the signage of the municipality within its area — street names, public buildings, etc. — must be produced in the language common to the residents. The signage in the streets of Tel Aviv-Yafo which contains writing in the language of Outer Mongolia will not be adequate because it will not meet the needs of the population. Street names do not fulfil their purpose as they should if passers by do not understand what is written on them. And the municipality whose street signs they are has failed to fulfil its task.

What has that to do with us?

Had it been proved to us that the Arab residents of the respondent municipalities — and for the sake of convenience let us speak hereinafter of Tel Aviv-Yafo — are adversely affected by the fact that they cannot read the municipality's street-signs (let us remember that we speaking only about the signs displayed in side streets of Jewish neighbourhoods; see section 8 above), we would not have hesitated to state loudly and clearly what we have to say and we would have forced the municipalities to add writing in Arabic to the Hebrew writing; this would have been the case for Soutine Street, for Modigliani Street, and for all the rest of the streets in Jewish neighbourhoods. Unfortunately, in the petition before us I have not found a single concrete complaint — not a concrete complaint from one end [of the petition] to the other — that a certain person encountered difficulty due to the lack of Arabic writing on the sign for Soutine Street. We have not found a single instance, unless it was due to myopia, of Arabs who lost their way merely due to the fact that there was no writing in Arabic on the names of side-roads in Jewish neighbourhoods. We have heard nothing about Arabs being hurt by the fact that they had difficulty in understanding Hebrew on the road signs. We have received no data about the proportion of Arabs who do not know how to read Hebrew.

The petitioners have made themselves trustees for the whole population of the respondents but did not take the trouble to put before us even a single witness statement from a resident who felt himself damaged due to the lack of writing in Arabic. We have heard a lot of arguments: about "prevention of the right of access" and "endangerment of safety" but all these are vacuous claims if the petitioners have not taken the trouble to base them on actual data. In the absence of suitable evidence, all the arguments of the petitioners concerning damage to the residents of the respondents are lacking in substance, vain pleadings that are not capable of yielding a remedy.

45. It emerges that the petitioners see themselves pleading before us in the name of the Arab public of the whole of Israel. Their arguments and attacks are laid before the court in the name of "Arabic-speakers as a national-language group". The petitioners are not attempting to fight their own fight. They want to fight the fight of the Arab "minority group" as a whole. Not in the direct and immediate interest of the individual do they request that we pronounce judgement; not even in the direct and special interest of the Arab residents who live within the respondent towns. They position themselves as representing the Arab collective in Israel and in the name of this same collective, they are demanding — for and on behalf of it — recognition of a right to be determined from its existence as a collective: the right in respect of the public authorities — the respondent municipalities, and in fact the state in its entirety — that it should work for the preservation and fostering of the national and cultural identity of the Arab collective.

46. This argument — in the name of the Arab collective and on its behalf — accompanies the petition from beginning to end — with special passages and comments interspersed throughout the petition, a little here a little there;

this argument — in theory and in practice — permeates the entire petition and make it into a unique petition. This argument is asking the court to introduce into law a concept of a new kind: the collective right of members of the Arab minority in Israel to preserve and foster their national identity and cultural uniqueness.

This right is not being claimed by the petitioners on behalf of members of the Arab minority as individuals, each of whom stands alone. The right is supposed to exist through the Arab minority as a national and cultural collective, and its clear and apparent motive is to place an obligation on the public authorities to promote the unique characteristics of this collective. From this right, claim the petitioners, a subsidiary right should be granted that is designed to foster the standing of the Arabic language, and this subsidiary right should be productive of a subordinate right of its own to require municipal signage in all its forms to be displayed in Arabic writing, the language of the minority. In other words: the basis is the collective right of the minority to cultural and national identity; this right engenders the right to the preservation and fostering of the language of the minority, this language being the outstanding characteristic of the culture of the group; and from the language there emerges the right to writing on municipal signage. Thus, this is not a standard petition that we are dealing with. The petition of the petitioners is not a petition among many. It is not one of those petitions to which we have become accustomed and in which we worked diligently as befits the resolution of such petitions.

47. In order to substantiate what we have said we can indicate several propositions scattered throughout the petition:

- [the policy of the respondents in municipal signage constitutes] an attack on the dignity of the Arab citizens of the state (quote from the introduction to the petition).
- the dignity of the Arab citizens of the state is harmed due to the function of the language as a cultural-national identifier (quote from the introduction to the petition). (Our opinion has been given: the petitioners do not speak of the residents of the respondent towns but of “the Arab citizens of the state”.)
- [the main motive of petitioner 1 is] the advancement of the rights of the Arab minority in Israel (from clause 1 of the petition)
- the intensity of the damage [due to the policy of the respondents] is especially severe due to the standing of the language in the creation of a cultural and national identity (the legal argument after clause 15 of the petition).
- the duty incumbent upon the public authorities to have respect for the language of the minority (clause 21 of the petition).
- the Arab citizens resident within the area of the respondents represent a national, language and cultural minority group. One of the characteristics of this separate cultural identity is their unique language (clause 24 of the petition).
- Thus, even without a status in law for the Arabic language, the Arab citizens who live within the area of the respondents, are entitled to read municipal signage in their own language (clause 25 of the petition).
- The discriminatory policy of the respondents, who ignore the status of the Arabic language as an official language, adversely affects the dignity of the Arabic-speakers as a group with a national-language individuality. Any policy that discriminates on a group background constitutes a serious affront to the dignity of the members of the group subject to discrimination. It arouses a feeling of deprivation and exclusion, evidence of inferiority in the status of citizens and damage to the feeling of belonging among the minority group. Discrimination against a minority group in such a manner is contrary to the legislative orders of the Founding Law: the dignity of man and his freedom (clause 27 of the petition).
- Language has a unifying function for the fostering of the cultural and national identity of the members of a minority. In the many multinational countries of the world, such as Switzerland and Canada, the language difference constitutes an initial indication of the ascendancy of a separate cultural identity. The importance of giving expression to the language of a minority does not lie, therefore, only in the actual perspective of acquiring knowledge for the citizen. Diligence in the use of the minority language is also incumbent from the right of the minority to retain its national identity and its cultural uniqueness freedom (clause 34 of the petition).
- prejudice against a language background thus damages the feeling of belong of the members of the group suffering discrimination. Over and above the unequal application of the law, and the discomfort caused to the citizen who speaks the minority language this constitutes genuine damage to the cultural identity of the minority group (clause 36 of the petition).

– in a closed article it will be pointed out that it is not enough to add Arabic writing to the signage in order to fulfil the obligation; the writing must be the same size as the Hebrew and with correct spelling in accordance with the rules of the language. Failure to comply with these demands also constitutes an affront to the dignity of the members of the language minority (supplement to the petition).

48. The petitioners are asking us, therefore, to recognise the Arab citizens of Israel as a national and cultural minority a group that is entitled — through the Arabic language — to the preservation and fostering of its separate national and cultural identity. And the petitioners are making another request namely that we impose on the local authorities an obligation to fulfil the rights of the Arabic public in such a way as to add Arabic writing to the street signs. The petitioners are therefore asking us to recognise the Arab citizens of Israel as a national minority with an independent identity; as a group entitled to retain its culture and tradition; and they further argue that the result of this recognition is a duty of the authorities to assist it, in practice, to develop this unique identity. One of the conclusions from this all-embracing duty is the addition of Arabic writing on all the street signage of the local authority and this through the recognition of the uniqueness of the minority group and in taking account of the language to preserve this uniqueness.

In the language of the case it states that the petitioners — who have taken it upon themselves to represent the Arab public in Israel — are asking in the name of this same public that their group that their collective right be recognized, a right that results from their belonging to a group, the right to the fostering and preservation of their language, including the writing in Arabic on the street signs of the local authorities. Not around the right of the individual on his own behalf do the petitioners attempt to construct a protective wall; it is not the interest of the individual that they are seeking to advance. They are seeing to advance the interest drawn from the collective uniqueness of the Arab public, the interest of preserving its unique identity and its difference of a minority group. It can be said that in this case the petitioners are working diligently for the strengthening of the status of the Arabic language as a programmed component of the Arab national collective and an implement for the typical expression of their uniqueness. The importance of language as part of their national identity as member of the Arab minority, claim the petitioners, the public authorities are required to help the minority in preserving and advancing the language. The addition of writing in Arabic on street signs is, in the opinion of the petitioners, liable to give implement their duty of the authorities to help the minority to preserve and develop its independent identity.

49. The petitioners are claiming that there is a collective right to preserve and advance the national and cultural identity. Unfortunately, we have not found that they have been able to indicate the source of a positive source in Israeli law, not under the rules of liberty and not under other law. And this is hardly surprising. It is the general rule the rights recognised in our legal system are rights whose subject is the individual a person as a person, Rights in general — with a few exceptions — are only granted to individuals.

This perspective — the perspective that put the individual in centre stage, a perspective that raises to miracle status the value of man, the personality of the individual, the well-being of the individual — which is the basis for this court, from the day on which it was established, the rule of rights. The person, the individual, was and remains the subject of rights; it was about him as an individual — and not as part of a group — that the court has spoken over all the years, and the rights that it granted — if it granted them. “The central contribution of the Supreme Court to Israeli justice since the establishment of the State of Israel was in the recognition of the existence of human rights and in determining the correct balance between them and the peace and safety of the general public. Ever since the establishment of the State of Israel, the Supreme Court has declared recognition of human rights and has the fact that they are based on the recognition of human dignity, the sanctity of his life and his being a free person” (In criminal motion 537/95 *Ganimat v State of Israel*, judgement xlix(3) 355, 413, spoken by the deputy presiding judge, Judge Barak). The court recognised, of course, in the need to balance the rights of the individual and the needs of society and the general good, but the social framework, in itself, did not constitute a subject of rights; it constituted only an element that had to be taken into consideration when determining the scope and depth of the rights of the individual. “That is how the procedures in the petition to the High Court of Justice 1/49 *Bajarno et al v. the Minister of Police et al* (judgement ii 80); petition to the High Court of Justice 144/50 *Scheib v. Minister of Defence et al* (judgement v 399); petition to the High Court of Justice 73/53, 87 *Kol Ha'am Company Ltd. et al v. Minister of the Interior* (judgement vii 871); petition to the High Court of Justice 7/48 *Al-Karbotli v. Minister of Defence et al* (judgement ii 5); petition to the High Court of Justice 337/81 *Mitrani et al v. Minister of Transport et al* (judgement xxxvii(3) 337); appeal re freedom 3,2/84 *Neumann v. Central Committee for Elections to the Eleventh Knesset, Avineri v. Central Committee for Elections to the Eleventh Knesset*, (verdict xxxix(2) 225) and many other good rules to accompany us on our way...” (*ibid*, 400). All of these rulings were concerned with the rights of the individual: freedom of expression, freedom of occupation, freedom from arrest, the right to be elected, and so on. The basis for these rules is the perception that the human being, the individual, has a value in himself, and that there is status for the will of the individual, his desires and his happiness. This perception also aimed — and continues to aim — at

fostering the personality of the individual, his freedom, his autonomy, and to defend all of these against the state. Its interest is in the individual per se, the rights of the individual as a person.

50. The same worldview, as stated, gave life to the Basic Laws which were first promulgated in 1992. The new Basic Laws “were themselves planted on an existing normative foundation” (the *Ganimat* case, 413) which were fashioned through the decisions of this court. And in the words of clause 1 of the Basic Law: Human Dignity and Liberty (5752 — 1992) (amendment):

1. Fundamental human rights in Israel are founded upon recognition of the value of the human being, the sanctity of human life, and the principle that all persons are free; these rights shall be upheld in the spirit of the principles set forth in the Declaration of the Establishment of the State of Israel.

And as derived from the Basic Laws, these are the rights that are deeply ingrained in the Basic Law, these are the rights of the individual in a liberal democracy: the right of the individual to life, to completeness of body and to dignity; the personal freedom of man; the right of a person to leave his country and to return to it as he pleases; the right of the individual to privacy and modesty in his life. The Basic Laws mention the rights of the individual as a person; the rights of a group of individuals, whether a national group, a cultural group or any other group — they do not say. They also do not mention the right of a person as part of a group. The society surrounding the individual is relevant but only in order to determine its scope and the extent of his rights within it, and even then “only to the extent that they do not exceed what is required”.

51. The petitioners have approached us with a different interpretation. The right they are claiming — the right to the fostering of a national and cultural identity — is not a right granted to the individual as living for himself. This is not even a shared right for all the citizens of the state in their capacity of citizens of the state. The right claimed by the petitioners is a right that is derived from the fact that a person belongs to specific group of the population: whether a person is a member of a national or cultural minority, the motive of the right is to help the members of the minority group to preserve and foster their rights as an independent group. This is a right that aims to strengthen the unique defining traits of the minority group; to distinguish it from the groups surrounding it; and to defend the members of the group from appearing to be like other groups or assimilation into them. It is intended to enable the minority group to preserve its unique characteristics, its unity and customs and to foster its culture and heritage.

52. We shall, of course, honour the world view of the petitioners and their desire to preserve the uniqueness of the Arab minority in Israel. And yet the question that arises is with this world view — however nice and appropriate it may be — has translated itself into the right or set of rights under Israel's legal system. Our answer to the question is in the negative. Israeli law does not recognize a collective right — a right against which there is a right to do something — to foster the unique identity and culture of a particular population group, and so far we have not heard hitherto about the right of the minority to preserve and advance its language by enforcing a duty upon the public authorities to assist it. We are aware of the freedom of culture and freedom of language. The right of the individual, of any individual — subject to exceptions — to engaged in cultural activity as his heart desires; every person is free to express himself in whatever language he wishes to, and the state will not force him to express himself in one language and will not order him to refrain from using another language. Yet is it a duty incumbent upon the state to assist a minority to preserve and develop its language and culture — we have never heard of such a duty.

53. The state is entitled, of course, to decide that it wishes to help in the preservation and fostering of someone's language, whether through the law or through another means. This is the case, for example, with the Law of the National Authority for Yiddish Culture, 5756 — 1996, under which a National Authority for Yiddish Culture in Israel was established, an Authority whose purpose included “the inculcation of the knowledge of Yiddish culture in all its forms and the fostering, for this purpose, research into the said culture and its teaching”. , and also “to advance, to help, and to encourage contemporary creation in the Yiddish language” (clause 2 of the law). The same is true of the Law of the National Authority for Ladino Culture, 5756 — 1996, through which the National Authority for Ladino Culture in Israel was established, an authority whose purpose in relation to the Ladino language is the same as that of the National Authority for Yiddish Culture in relation to Yiddish. Yet a decision of this kind — a decision of national application — is not a prerogative of the government. The Yiddish-speakers, the Ladino-speakers and the speakers of any other language have no right to receive assistance from public bodies and the public authorities have no duty to preserve or foster them.

54. In their argument as to the legal right of the Arab minority — and in parallel, the duty of the government — to preserve and foster its language, the petitioners are asking us to make something out of nothing. The petitioners seek to have the right of the Arab minority recognized to “foster their cultural and national identity” and that this general right is to be used, among other things, through the specific right: the right to street signage in Arabic. The

request of the petitioners is, therefore, that freedom of language and freedom of culture — these basic freedoms of the individual — be turned into rights which entail obligations: specific duties imposed on the public authorities for the benefit of the Arab minority, the advancement and preservation of their collective identity. To be more precise and specific: we are being petitioned in order to force the respondent municipalities to add Arabic writing to all of the street names within their area. We cannot do this and there is no justification for us doing so.

In its far-reaching decisions, the Supreme Court has time and again recognized rights whose subject is the individual. However, when the right is not that of an individual, this court has not enshrined in law group rights deriving from the separateness of a group of the population, rights whose purpose is to preserve this separateness. We have never recognized the legal collective right of a population group to foster and advance its culture and language, even less so have we recognized the duty of the state to assist in this purpose. That has been the general rule, and in respect of the language we have additionally examined order no. 82 of the Orders in Council. As far as can be seen from this ordinance in respect of it being a group directive, the Orders in Council clearly determined the extent of this right, and I have not found that we are entitled to cross a line which the legislator determined and expand the extend of its interpretation. Moreover, as we shall specify hereunder, the recognition of a collective right to foster the national and cultural identity of the Arab minority — as the petitioners request — constitutes as de facto political act and the authority to take this action belongs to the political authorities — and to them rather than to the court.

The political nature of the petition

~~55. The petition of the petitioners that we recognise the collective right acquired by the Arab minority in Israel — a right from which they are attempting to derive a duty to write in Arabic on the street signs of the respondent municipalities — does not merely have theoretical importance but — mainly — practical importance in respect of the relationship between the judiciary and the law-making authority. The petitioners petition seeks from us, a court of law, to take a purely political step, no less, that the court shall determine, as case law, that the Arabs in Israel are more than mere citizens entitled to equality of rights (and obligations). They are asking us to determine that the Arabs in Israel constitute a national and cultural minority which the state is required to help in preserving and advancing its independent identity. This determination constitutes a political decision of a high order, and the authorities who have the power to formulate a decision of this type are political authorities — first and foremost, the Knesset — and not the court.~~

~~56. From the first day of its existence, the state has recognized the Arab citizens living within its borders as citizens with equal rights. This status was acquired for the Arabs with the Declaration of Independence which promised to grant “complete equal social and political rights to all its citizens without difference of religion, race or sex” and even called upon “members of the Arab people, residents of the State of Israel to keep the peace and take part in the building of the state on the basis of full and equal citizenship and the basis of suitable representation in all its institutions, temporary and permanent”. The state also promised the Arabs in the Declaration of Independence the status of citizens with equal rights. Just as the Jew who is a citizen of Israel enjoys the rights granted to him in law and statute, the same applies to the Arab citizen who is entitled to enjoy the same rights. “All the citizens of Israel Jew and non Jew — are ‘stakeholders’ in the State...within the State all the citizens of the state have equal rights”. Top of page a, I2316/96 *Isaacson v. Registrar of Political Parties*, judgement I(2), 529,549.~~

~~57. This entrenched concept of the status of the Arabs in Israel as citizens with equal rights is the same as that assumed by the court in the Kaadan case (application to the High Court of Justice 6698/95 *Kaadan v. Israel Lands Authority*, judgement liv(1) 258). In that case, we ruled that “the state shall not be entitled in law to award state land to the Jewish Agency for the purpose of setting up the Katzir communal settlement on the basis of discrimination between Jews and anyone who is not Jewish” (*ibid* , 286), and the consideration on which the court based its judgement was the supreme principle of equality between the citizens of the state (*ibid*, 272).~~

~~Equality is one of the basic values of the State of Israel. Any authority in Israel — and primarily the State of Israel, its authorities and employees — are required to act equitably between the various individuals in the State. Thus the State is required to honour the basic right of equality of each individual in the state and to protect it.~~

~~By “equitably between individuals” we were talking of between individuals and not between groups. On the basis of this principle of equality and in determining that the equality of citizen's rights between the individuals in the state is a basic principle in our lives, and we added and ruled that “the State shall not discriminate between individuals when it decides to allocate them state land” (*ibid*, 275). When we decided what was decided according to law, we realised that prejudice due to religion or race, prejudice that can not be compatible with principles of morality and justice of our society, since prejudice is unacceptable. We have not been asked to determine — and in any case we did not~~