



# Integrating the Arab-Palestinian Minority in Israeli Society: Time for a Strategic Change

Ephraim Lavie

**Contributors:**

Meir Elran, Nadia Hilou,  
Eran Yashiv, Doron Matza,  
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**This book is dedicated to the memory of  
former member of Knesset and guest researcher at INSS,  
Ms. Nadia Hilou, who was an active partner in the research team  
from the beginning of the project until close to its end.  
May her memory be a blessing.**

**INSS** Institute for National Security Studies

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**החברה הערבית־הפלסטינית במדינת ישראל:  
עת לשינוי אסטרטגי בתהליכי השילוב והשוויון**

אפרים לביא

בהשתתפות:

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This book was written within the framework  
of the research program on the Arabs in Israel and  
was published thanks to the generous financial support of  
**Joseph and Jeanette Neubauer of Philadelphia, Penn.**

Copy editor: Ela Greenberg

Graphic design: Michal Semo-Kovetz, Yael Bieber

Cover design: Michal Semo-Kovetz

Printing: Elinir

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ISBN: 978-965-92659-7-8

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April 2018

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## Foreword by Shimon Shamir

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The existence of a large Arab minority within the State of Israel has presented the Israeli leadership and Jewish society in the country with a challenge that continues to help shape the fundamental character and historical entity of the state. The moment that Israel was defined as a Jewish and democratic state, it sought to pursue two goals regarding its Arab minority: to preserve the essence of the state as the entity responsible for realizing the Jewish national vision, and to implement the democratic principle of complete equality for all citizens. In reality, however, it never succeeded in achieving an appropriate balance between these two goals, and fulfillment of the second principle pertaining to Jewish-Arab relations has remained inadequate.

The Or Commission, established in order to investigate the facts surrounding the October 2000 clashes in Israel, understood its task in broad perspective and considered this subject in-depth. The commission's report examined the fundamental aspects of the Arab community in Israel, documented the unequal treatment of the population, and defined anti-Arab discrimination in Israel as a violation of law. Its recommendations called decisively upon the state to take action to close the existing disparities between Jewish and Arab citizens by means of equal budgeting and measures to improve the condition of Arab society in fields such as education, employment, industrial development, land for construction, and the dispersed Bedouin communities in the Negev desert. The Or Commission also called for measures to be taken so that the Arab citizens of Israel could express their identity, culture, and language in public life in an appropriate manner, and to undertake activities to encourage the Arabs' sense of belonging to the state and their integration.

Today, it has already been established that most of the Or Commission's recommendations have not been implemented. Although progress has been made on some issues, the fundamental problems remain largely unsolved. But can we conclude, on this basis, that the Or Commission has failed to achieve its goals? Perhaps not completely. At the very least, the commission

succeeded in producing an official state document that highlights what needs to be done in the realm of Jewish-Arab relations and creates a frame of reference for discussing the matter, as illustrated in this book. This book's discussions begin with quotes from the Or Commission Report, using it to characterize and analyze its findings and to derive the lessons to be learned.

This book also incorporates, as an additional frame of reference, the remarks of Israel's President Reuven Rivlin regarding the social sectors that exist within the Israeli population, which serve as an umbrella for the pronouncements of the book as a whole and, indeed, are inspirational. They call on the Jews of Israel to recognize that the Arabs of Israel are part and parcel of this country and that both sides need to come to terms with the fact that all demands for the other side to renounce its past and its identity, or expectations that they will do so, are in vain. President Rivlin highlights the sense of threat and fear that lies at the core of how each side views the other and regards overcoming these feelings and establishing a relationship of trust as the major task of our time. On a practical level, Rivlin calls on Israelis to deal courageously with the unacceptable disparities in state funding, infrastructure, and land. He also calls for cultivating education that encourages partnership, which includes the study of the language of the other, among other things.

President Rivlin's words echo the thinking of the country's first president, Chaim Weizmann, who, the day after the UN declaration of the establishment of a Jewish state, already had suggested that they be aware that this state would contain "a very large Arab minority"; called for the institution of egalitarian justice; warned that "there must not be one law for the Jew and another for the Arab"; and foresaw that the state would be judged "by what it will do with the Arabs" (*Trial and Error*, p. 447).

Prevailing views within Arab society in Israel regarding the state are not static and respond to the changes of the times in Israel and the region. Indeed, during the thirteen years that have elapsed since the publication of the Or Commission Report, they have reflected contradictory trends: radicalization on the one hand, and a warming in relations on the other. This is the focus of the second part of this book.

One ray of hope that emerges from the realities of the present is a growing tendency among Arab citizens to integrate into the life of the state, a process that is sometimes referred to as "Israelization." Without giving up their

unique identity or their demand for civil equality, an increasing number of Arabs can be seen throughout the Israeli landscape, occupying prominent positions in cultural life, sports, medicine, and business. These citizens, who typically speak fluent Hebrew, regard the State of Israel as the stable framework for their activity and Jewish society as its relevant context. The trend is fueled not only by the internal dynamics of life in Israel but also by Israeli Arabs' fear of the killing and destruction underway in the neighboring Arab countries, their disappointment with the Palestinian leadership, and the relative rise in their standard of living. This trend has also found expression in public opinion surveys.

It is quite ironic that precisely at this stage, when a broad potential for the integration of Arab citizens into the State of Israel has started to emerge, trends of exclusion are on the rise within Jewish Israeli society and its leadership. The discourse of various senior government figures regarding Arab society betrays tones of alienation, collective blame, and fear-inspiring warnings. Based on the extreme and provocative conduct of Arab public figures from the nationalist and Islamist camps, these officials are advancing—or attempting to advance—legislation that would prevent Arabs from residing in community settlements (*yishuv kehilati*); deny them rights that are granted to Jews (by classifying the latter as discharged soldiers); limit the possibility of commemorating the *Nakba*; strip the Arab language of its status as an official language of the state; and other such actions.

The most serious development in recent years had been the rise of racism in Jewish society. The phrase “death to Arabs” has entrenched itself in the Israeli reality, and efforts to eradicate its usage have typically been characterized by feeble language. Incidents of violence against Arabs in malls and parks occur from time to time; Jewish nationalist activists, including rabbis, continue to call on Jews to prevent renting of apartments to Arab students; and some institutions and businesses are closed to employing Arabs. Public opinion surveys and remarks made in the social media and on social networks reflect the broad presence of extremely racist views. Most problematic, however, is the mood among school children, according to various surveys, a majority favors not only rolling back the civil rights of Arabs but also the transfer of the country's Arab population to the Palestinian Authority. The thriving of such racist views is particularly troubling when found within the very educational institutions that possess the means for combating them.

The presence of racism in Jewish Israeli society is a distinct manifestation of phenomena in Jewish-Arab relations whose significance transcends the realm of inter-sectoral relations and casts a long shadow over the very character of the state, weakens its unity and steadfastness, and raises questions about the fight against the phenomena of anti-Semitic hooliganism in other countries.

Israeli civil society has been playing a prominent role in the fight against this ominous wave. Nonprofit volunteer organizations and research institutes collect data on the ground, document phenomena, research processes, initiate public discussions, and issue publications. This exceptional book is perhaps the most recent product of this effort. It was initiated and published by the Institute for National Security Studies under the direction of Brig. Gen. (ret.) Meir Elran, and it was written by Colonel (res.) Dr. Ephraim Lavie of Tel Aviv University's Tami Steinmetz Center for Peace Research and the Dayan Center for Middle Eastern and African Studies, with the participation of a team of experts from various institutions. Their hard work is well appreciated.

## Foreword by Asher Susser

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The importance of this book lies in the effort it represents, by means of a number of scholarly studies, to place the issue of the Palestinian Arab minority in Israel and its role in the country at the top of the Israeli public agenda. Since the establishment of the state, Israel has sought to be both the nation-state of the Jewish people and a legitimate society in the international community. As a Jewish and democratic state, Israel will ultimately be judged by its own eyes and by those of the international community for its treatment of its Arab citizens. Following the disturbances of October 2000, in which many thousands of Arab citizens in Israel engaged in protests in support of their fellow Palestinians in the Occupied Territories during the Second Intifada, the Israeli government established a state commission of inquiry known as the Or Commission. In its findings, this commission determined that the state had failed to ensure the provision of full equality to its Arab citizens, who suffer from different kinds of institutional and social discrimination and deprivation in a variety of spheres.

The commission recommended the implementation of a number of measures to rectify the situation and to close the gaps between Jews and Arabs in Israel. Its aim was to achieve “true equality” and to work toward “removing the stain of discrimination against Arab citizens, in all its various forms and manifestations.” Although the government has passed some significant and relevant resolutions, no all-embracing strategic approach has yet crystalized and only part of what it has decided has actually been implemented in practice. Most importantly, the tensions between Jews and Arabs in Israel have not subsided. The long-term stability and thriving of the State of Israel requires a change in the attitude toward the country’s Palestinian Arab minority. To this end, Jewish-Arab relations must be at the top of the national agenda.

It goes without saying that in the state of conflict between Israel and the Palestinians, and—for an extended period—with the Arab states as well,

obstacles have accumulated on the path to a life of peace and peaceful coexistence. The relationship between Jews and Arabs in Israel are influenced by three historical-political contexts: the Arab-Israeli context, which focuses on the system of interaction between Israel and its Arab neighbors; the more narrow and immediate context of relations between Israel and the Palestinian people both inside and outside the territories; and the internal day-to-day context of Jewish-Arab relations in Israel. The importance of the difficulties stemming from this reality should not be underestimated.

Some of the fundamental problems between Jews and Arabs are the result of the 1948 war and the subsequent continuation of Israel's conflict with the Arab states. For example, the painful issue of internal refugees (people who were forced to abandon their homes during the war and found refuge in other places in Israel) and the land problem (originating from the wide-scale expropriations that were carried out during the early years of statehood) were direct outcomes of the 1948 war, as was the military government that was imposed on the Arab citizens of Israel until 1966. The government regarded it as a vital necessity to establish its absolute control over all state territory, given concern regarding the "second round" of hostilities that the Arab states had promised Israel. At the same time, Israel viewed its Arab citizens as an unreliable force against which it had only recently finished fighting a war. The circumstances since then have changed beyond recognition, but the distortions cannot be rectified simply by reverting to that which had previously existed before. Such a jump backward through the tunnel of time would cause horrendous injustice to Jewish citizens of the State of Israel, who, for three or four generations, have been living in places that were depopulated of its former Arab inhabitants under these circumstances.

It is only natural that the Arabs in Israel regard themselves as an inseparable part of the Arab-Muslim world that surrounds them, and they are greatly influenced by the political and cultural processes underway in the neighboring countries. At the same time, they are citizens of the State of Israel and justifiably demand full equality within its borders. The combination of factors at play is complex and problematic. From the perspective of most Jews, the Arabs in Israel appear to sometimes identify with their mortal enemies. At the same time, throughout the existence of the State of Israel, a decisive majority of the state's Arab citizens have been loyal and law abiding, and

only an extremely small number have taken action and engaged in violence against the state.

In the 1950s and the 1960s, Egypt's President Gamal Abdel Nasser rose to prominence. This was the golden era of Nasserist Arabism throughout the Arab world and among the political and intellectual leadership of the Arabs in Israel. It was during this period that Arab citizens of Israel established the al-‘Ard movement, which was fueled by this pan-Arab nationalist sentiment and declared illegal. It was also during this period that Mahmoud Darwish wrote his canonical poem “Identity Card,” which contained the piercing refrain intended for the Israeli census taker: “Write it down! I’m an Arab.”

The humiliating Arab defeat in 1967 heralded the collapse of the pan-Arab movement, which ultimately revealed itself as an empty vessel. Two phenomena emerged from its ruins: radical Islam on the one hand, and territorial nationalism on the other. Throughout the Middle East, regimes that cultivated territorial nationalism and strived above all to ensure their narrow state interests contended with radical Islamic movements that sought to undermine the existing order. This was the case in the Arab countries; it has also been the case, with somewhat of a delay, in Palestine, in the ongoing arduous struggle between the Palestine Liberation Organization (PLO) and Hamas. Signs of the external Palestinian struggle were quickly manifested in Arab society in Israel. Following the 1967 war, the pre-1967 borders (the Green Line) were opened, and the Arabs of Israel were able to integrate with their brethren in the West Bank and the Gaza Strip for the first time since 1948. The result was a rapid process by which the Arabs of Israel came to view themselves as an inseparable part of the emergent Palestinian people. Among the Arabs in Israel and in the neighboring Arab states, a political competition developed between nationalists, on the one hand, and representatives of political Islam, on the other.

With regard to nationalism, a chasm emerged between the national narratives of the Arabs and the Jews in Israel. For the Jews, the establishment of the State of Israel was the realization of historical justice after two thousand years of exile and persecution. As a result of their abrupt transition from “Holocaust to rebirth,” the Jews—the most persecuted people on earth—now enjoyed national liberation and sovereignty and independence in their historical homeland. For the Arabs, it was a different story altogether. From their perspective, the theft of their historical homeland by an aggressive

colonial movement was neither historically justified nor an act of self-defense; rather, it was an outrageous injustice. If 1948 was a historical victory of national liberation for the Jews, it meant the complete opposite for the Arabs: defeat, mass exile, and loss of the homeland—it was a catastrophe, a *nakba*.

To use the words of the Arabs in Israel: “*yaum istiqlalikum, yaum nakbatina*”—“your independence day is the day of our catastrophe.” The backbone of Palestinian national identity is anchored in the formative traumatic experience of 1948. By virtue of their national definition, the Palestinian citizens of Israel cannot identify with the Zionist enterprise that established the state of which they are citizens. This is the source of their call to turn Israel into a “state of all its citizens,” which is a euphemism for the termination of the State of Israel as the nation-state of the Jewish people.

In the “Future Vision” documents written by the political and intellectual leadership of Arab society in Israel in late 2006 and early 2007, the authors explained their conception of the Arabs’ place in the State of Israel and their vision regarding their future within it. From their perspective, Israel was the product of a “colonialist process” that had imposed the state and its citizenship on the native population. If they wish to achieve full equality, they maintained, Israel can no longer be defined as the nation-state of the Jewish people. Moreover, Israel must assume responsibility for the historical injustice it caused the Palestinians and compensate them for it. Israel must also recognize the Arab minority as a national minority, as well as its natural link to both the Palestinian people and the Arab and Muslim nation, and allow a free and special relationship with them without any reservations. According to the “Future Vision” documents, the Arabs in Israel should have only rights and not duties. In this spirit, the Arab leaders demanded integration and equality within the state whose legitimacy they deny in practice. Even the Jewish liberal left found it difficult to come to terms with the “Future Vision” documents, and it was clear that the Jewish majority could not use them as a basis for negotiation with the Arab minority.

The inherent difficulty in seeking a middle ground between these two extremely opposing national narratives is what lies at the heart of the vicious cycle of suspicion, hostility, and distrust that characterizes Jewish-Arab relations in Israel. The trends of alienation reflected in the “Future Vision” documents have intensified over the past decade. At the same time, Arab political streams that do not call for integration within the state have grown

stronger whereas those that advocate integration have weakened. As in the broader Muslim Arab world, and in the West Bank and the Gaza Strip, Islamism has significantly increased in strength within Israel's Arab community. The same is true of the Palestinian nationalist approach, which envisions the establishment of one Palestinian national state in all the territory of Palestine. Still, it is important to emphasize that the Islamist and nationalist streams recognize Israel as a given reality, with which it must come to terms at this stage.

The approach within the Arab-Israeli population that accepts Israel in its current form and demands only full integration and equality has eroded over time and has all but vanished from the Arab-Israeli political map. The force that has maintained its strength in this context has been the Arab-Jewish Communist movement, which assigns great importance to joint Jewish-Arab activity and calls for the Arabs' integration into the Israeli state and society. This movement, however, does not accept Israel's definition as a Jewish state and views it, by definition, as encompassing a discriminatory dimension.

Beginning in 2011, these developments resulted in legislation such as the Nationality Law, which aimed once again at emphasizing the Jewish attributes of the State of Israel. Although not enacted, this legislation contained clauses that, according to its critics, were detrimental to the status of Arabs as citizens with equal rights. The laws in question have not been enacted and may not be in the future. However, they have succeeded in tainting the atmosphere and again increasing the level of tensions between Jews and Arabs in the country. The mere notion of legislating solutions to such complex social and political problems and conceptions of collective identity for entire populations is fundamentally flawed.

The failure to find a redeeming formula for a compromise capable of bridging the fundamental divisions should not lead us to conclude that we must give up on one based on integration and equality. The compromise will not be found in formulas or historic declarations or in laws that have no necessity and offer no benefit. It will also not be found in attempts to rewrite the historical narratives or invalidate morally and politically one group over the other; rather, it will be achieved through mutual compromise in the practical world.

The "Future Vision" documents did not have wide reverberations within Arab society itself and quickly vanished from the public discourse. Arab

society in Israel is currently characterized by two opposing trends. On the one hand, alienation from the state is on the rise in the political and ideological sphere, and on the other hand, the country has been witnessing increased practical integration in diverse realms of life. Jews and Arabs are working together on a daily basis more than ever before: in hospitals at all levels, universities, theatrical and cinematic productions, courts of law, pharmacies, shopping malls, auto-repair shops, and construction sites, let alone in soccer leagues, in which the increasing participation of individual Arab players and Arab teams is especially prominent on all levels, including the national teams. Not everything is measured by national narratives, and everyday practical needs have had a significant, if not decisive, influence.

Almost seventy years have passed since the establishment of the State of Israel. Only a small number of Israel's Arab citizens even remember the days when they were not part of the country. Over time, Arab society has adapted to the Jewish society in which it lives. It speaks Hebrew and finds its place in Jewish society to a significant degree, despite the significant alienation and tension it experiences, which are equally as real. Despite their many complaints, most Arabs in Israel would not be willing to relinquish their Israeli citizenship in exchange for any alternative. They believe that Israel is a good place to live, whereas the national, nationalist, and Islamist alternatives seem to have impractical goals. Moreover, the chaotic state of affairs characterizing the Arab world in the last years of the Arab Spring undoubtedly caused great concern within the Arab population and has encouraged it to continue moving in the direction of increased—as opposed to decreased—integration within Israel. The pragmatic policy of the Joint Arab List, led by Ayman Odeh, which espouses a dual approach of Palestinian Arab nationalism and social and economic integration, may offer a more solid basis for dialogue toward greater integration and equality.

The basic approach to Israel's Arab minority must be inclusive as opposed to exclusive and based on mutual recognition—in practice, and not necessarily on a declarative level—of the collective existence of the other. The discourse must be equitable, symmetrical, and reciprocal. Political symmetry requires that ensuring Israel's existence as a Jewish state involves the establishment of a Palestinian state, side by side with Israel, and recognition of the Arab minority in Israel as a national minority. Ultimately, it will have to be made clear—not necessarily by declaration or legislation, but rather through public

discourse and the practical conduct of both sides—that the Jews recognize the Palestinian Arab minority as a national minority, with all the collective rights this entails, and that the Arab minority recognizes the national rights of the Jewish majority and its right to define its state as it chooses.

Reciprocity requires that the Jewish side not negotiate for the “provision” of rights to the Palestinian Arab minority from a position of sovereign patronage, or make full equality—which is a basic right—contingent upon declarations of allegiance or political change. The Jewish side must understand and accept the fact that the reference group for the Arabs in Israel is the country’s Jewish majority, as opposed to the Arab inhabitants of neighboring countries. Arabs cannot be dismissed by the condescending and irrelevant retort that their situation in Israel is better than that of their brethren in the Arab countries.

At the same time, it makes no sense for Israel to speak about the legitimate rights of the Palestinian Arab national minority living within its borders while the Arab side portrays it as a colonial settler entity that is illegitimate by its very nature. Mutual understanding is impossible without a degree of practical Arab internalization—again without the need for lofty declarations—that Zionism is the liberation movement of the Jewish people, and that the Jews, from their perspective, also have indigenous historical ties to the country. There can also certainly be no fair compromise based on the declared negation of everything that is dear to the Jewish population, or, alternatively, to the Arab population.

In December 2015, the government of Israel passed a historic resolution regarding its plan for the next five years (2016–2020), according to which 15 billion shekels would be allocated to development projects in Arab localities. This was an unprecedented resolution aimed at reducing the disparities between Jews and Arabs in Israel. However, before the ink on this resolution had even dried, the government had second thoughts and began to backtrack. After the terror attack on Dizengoff Street in Tel Aviv in early January 2016, the prime minister issued a statement accusing the entire Arab population of running a parallel state “in which law does not rule.” This charge was reminiscent of a previous similarly spirited statement in which he sought to mobilize his supporters on election day in March 2015 by proclaiming that “the Arab voters are coming out in droves to the polls.”

After the attack, the prime minister appointed a special team including Ze'ev Elkin and Yariv Levin, two ministers with reservations about the five-year-plan, to supervise its implementation. Levin subsequently announced that certain conditions would be applied regarding areas such as education, policing, and high-rise building, ensuring that the plan would be implemented. Based on short-term political maneuvers and conditional citizenship, nothing will be achieved. As in the case of other existential issues, as well as the issue of the integration and equality of the Palestinian Arab minority in Israel, the time has come for historic decisions to be made, while formulating an overall strategic conception for implementing these goals in practice. At this point in time, nothing less will do. As asserted in this book's conclusion, the time has come for a conceptual change on the national level.

## Preface

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This study was conducted under the auspices of the Institute for National Security Studies (INSS) and research on the Arabs in Israel, which aims to deepen knowledge and understanding regarding the processes underway in Arab society in Israel and its relations with the State of Israel and its majority Jewish population. To carry out the study, a professional team of expert researchers from different fields was assembled to examine the realities of the Arab society in Israel, the development of its relations with the state and Jewish Israeli society, and its adaptation to and integration within Israeli society and the Israeli economy.

The years that have passed since the publication of the Or Commission Report provide us with an opportunity to observe state policy and assess the social, economic, and political processes that have taken place in Arab society in Israel. The research team set three primary goals for itself, and structured this book accordingly.

Part I provides a description and analysis of the realities of Arab life in Israel from a legal, social, economic, and political perspective over more than ten years since the publication of the recommendations of the Or Commission. Part II analyzes the deterioration in relations between the state and Jewish Israeli society on the one hand, and Arab society in Israel on the other hand. It does so against the background of the Arabs' continuing feelings of discrimination and deprivation, the struggle for change in the status of the Arabs in Israel, and the demand to recognize this population as a national-indigenous minority, on the one hand, and the trends of social and economic adaptation and integration, on the other hand.

Part III draws conclusions and offers recommendations aimed at improving the conditions of the state's Arab population in major areas of life; strengthening their sense of belonging to the state as citizens with equal rights; and intensifying integration within society and the economy.

The authors of this book approached their task based on their view of this issue as one of the most complex and problematic issues with which Israel has ever had to contend. They believe that despite the political challenges that make it difficult to effectively address this issue, the clear and mutual interests of Jews and Arabs in Israel require immediate action to bridge the gaps between them and to formulate a joint strategy that will pave the way for the full integration of Arab citizens into Israeli society and the Israeli economy, based on equality of rights and full obligations.

In addition to presenting the unique condition of Arab society in Israel in recent years, the authors of this book regard its specific goal as providing a basis and a platform for public discussion and as a supporting tool for decision makers and policy makers. Its overall aim, however, is to bring improvement to Arab society in Israel and to advance its integration into Israeli society and the Israeli economy. Throughout the book, the Arabs in Israel are referred to interchangeably as “Palestinian Arab society” or “the Palestinian Arab minority,” and “the Palestinian Arab community in Israel.” However, based solely on considerations of simplicity and convenience, they are also referred to as “Arab society,” “the Arab minority,” and “the Arab community.”

This book was written by an INSS research team focused on the Arabs in Israel, headed by Meir Elran. The team was guided by Dr. Ephraim Lavie, director of Tel Aviv University’s Tami Steinmetz Center for Peace Research, who also served as this book’s academic editor. The study’s chapters were authored as follows: Dr. Ephraim Lavie wrote the book’s political and social chapters; Keren Aviram, LL.M., wrote the study’s legal chapters; Prof. Eran Yashiv and Hofni Gartner wrote the chapter on economics; and Dr. Doron Matza wrote the chapter on the development of Arab localities and municipalities. We are grateful to Pnina Sharvit Baruch, LL.M., Maya Kornberg, Manal Hreib, and Idan Haim for their significant contributions to this study and their involvement in its composition.

## Executive Summary

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In this study, the authors advance four major claims. The first is that the State of Israel and Jewish society in Israel has not changed its fundamental approach to Arab society following the recommendations of the Or Commission, the state commission of inquiry that was established to examine the causes of the unrest of October 2000. The rights of Arab society in Israel as an ethnic minority have remained limited. This population is not recognized as a minority that possesses collective rights, and the disparities between it and Jewish society continue to expand, despite the improvement in the Arab population's socioeconomic status compared to the past. Short-term political interests and social and security considerations, such as the fear of separatism, continue to dictate the policy applied to Israel's Palestinian Arab population. Despite the plans formulated and implemented and the resources invested over the past decade, and despite the fact that the Arab community in Israel is equal under the law and enjoys civil rights that are equal to those of the Jewish majority, Arab society in Israel is still excluded and discriminated against in many ways and lacks full civil equality. It suffers from institutional discrimination manifested by the unequal distribution of resources and funds, the percentage of Arabs employed in the Israeli public service, and in terms of settlement. Arab society also faces non-institutional social discrimination manifested in everyday phenomena such as the refusal to hire Arabs, opposition to Arabs moving into Jewish settlements, the barring of Arabs from places of leisure and entertainment, and the use of racist expressions toward this population.

The authors' second claim is that this reality poses a dilemma for Arab society in Israel regarding its future and its status within the state. On the one hand, after a long road of social and cultural experimentation, the country's Arab population has started adapting to the Jewish majority among which it lives and has demonstrated a desire for social and economic integration. On the other hand, it seeks to ensure that this integration will not involve the loss of its cultural, ethnic, and national identity. At the same time, as

noted above, Arab society must also contend with institutional and social discrimination and the lack of full civil equality. Many Arabs in the country regard Israel's self-definition as a Jewish state as the root of the problem. The demand that the state normalize the status and future of its Arab community while considering its views in the process is typically met with suspicion and opposition by the state and the country's Jewish population. This has been manifested in several legislative initiatives aimed at fortifying Israel's Jewish character and in the mounting radicalization among parts of Jewish society vis-à-vis the country's Arabs, including expressions of hatred and racism.

The study's third major claim is that a national strategic change in Israeli policy toward its Arab population—designed to bring about their social, economic, and political integration—could strengthen their sense of belonging to the state as citizens with equal rights and obligations, ensures their commitment to abide by and maintain the rules of democracy and social consensus, and deepen their involvement in society and the economy. Such a policy must be based on recognizing that full and fundamental civil equality is a mutual interest of both the state and Arab society, on the one hand, and the understanding that the national identity and legitimate interests of the Jewish majority will be maintained, on the other hand. It must be characterized by a coherent and long-term overall vision that charges the state with positive obligations in the realm of social rights (such as education and health services), enables obstacles to be overcome, and ensures an equitable division of public resources.

The study's fourth claim is that even though Palestinian Arab society in Israel continues to crystalize as a (civil) community that is distinct from the Palestinian people living outside of Israel, its primary components of identity are still grounded in Palestinian national identity and in social and family ties with Palestinians in the West Bank and Gaza Strip. For this reason, Arab society's attitude toward the State of Israel will evidently be influenced by the relations between the State of Israel and the Palestinian people in its entirety. That being the case, the shaping of the new policy vis-à-vis Arab society in Israel can address initial needs only that facilitate social mobility. At the same time, there is a need for a political solution to eradicate the national conflict (particularly its manifestations within the state, such as internal refugees and the land issue) as an influential and central factor in the relations between Arab society, and the state and its Jewish majority.

## Introduction

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Within Israel, fundamental tension exists between the two major narratives of the establishment of the state. From the perspective of the Jewish majority, the establishment of Israel was the fulfillment of the Jewish people's right to self-determination in its homeland. From the perspective of the Palestinian Arab minority, it was a historical injustice of exile and land theft that has resulted in a powerful sense of exclusion and alienation from the identity of the Jewish state.

Upon its establishment, the State of Israel proclaimed its intention to “ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex . . . guarantee freedom of religion, conscience, language, education, and culture . . . safeguard the Holy Places of all religions . . . and be faithful to the principles of the Charter of the United Nations.” At the same time, it called upon the Arabs who remained within its borders following the 1948 war “to preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.” The Declaration of the Establishment of the State of Israel, however, did not recognize the Arabs as a national minority entitled to collective national rights, and neither, subsequently, has the State of Israel nor the Israeli High Court.<sup>1</sup> Moreover, during the early years of statehood, the point of departure of both the state and Jewish Israeli society in dealing with the country's Arabs was that they constituted a hostile element.<sup>2</sup> This attitude became a fixed facet of Israeli society in the first two decades of statehood, during which the country's Arab population lived under military government, and it continued even after the dismantling of the military government system. Given the circumstances of the time, during which processes of state and society building were underway, and the ongoing military conflict with its neighbors, the State of Israel did not provide its Arab citizens with equal

treatment as a minority group that was entitled to personal and collective rights.

Although never formulated in an official policy document, the policy implemented by the State of Israel over the years was designed to ensure the rule of the Jewish majority in realizing their right of self-determination and to thwart any attempt within Arab society to challenge this rule. Certainly, ensuring the rule of the majority does not contradict the provision of equal rights to all citizens of the state. Moreover, the Israeli government has proclaimed the need to maintain “civil equality” and reduce the disparities, and it has taken actions to this end; efforts to meet this need, however, have stemmed primarily from social and security considerations, such as a fear of separatism.

As an ethnonational minority, Arab society in Israel fluctuates between the desire to integrate into the country’s social and economic life on the one hand, and the fear that this will result in the loss of their cultural, ethnic, and national identity on the other hand. Over the years, Israel’s Arab community has refrained from engaging in political violence and has typically expressed protest using non-violent methods. Indeed, Arab society in Israel has, over time, adapted to the Jewish majority in whose midst it lives and has forged close relationships with the state and with Jewish society in many realms of life, without assimilating into it. These processes of integration into Israeli society have become the decisive factor influencing Arab citizens’ attitude toward the state. As far as they are concerned, integration has not run counter to their national identity.

In October 2000, relations between Arab society in Israel and the country’s Jewish majority was put to the test when protests staged by Israel’s Arabs in support of the Arabs of the West Bank and Gaza Strip, at the outbreak of the Second Intifada, resulted in violence and confrontations between demonstrators and Israeli security forces. The violent clashes resulted in the death of twelve Arab citizens of Israel, one Arab resident of the Occupied Territories, and one Jewish Israeli (caused by stone throwing). These events represented a low point in Arab-Israeli relations in Israel. Equally as important, however, they raised the question of to which extent are Arab Israelis considered citizens of the state. The reports of the unrest and the conduct of the state authorities, on the one hand, and the Arab leadership, on the other hand, obfuscated the line between Arab citizens of the state and the Arabs of the West Bank.

The events of October 2000 marked a milestone in Arab-state relations in Israel. The Or Commission, the state-appointed commission of inquiry led by Justice Theodor Or investigated the deep-seated factors that led to the outbreak of violence and pointed to the failure of the state's policy toward its Arab citizens. The Or Commission also called for recognizing the identity of the Arab citizens and their hardships, and for taking action to fundamentally rectify the situation. For the first time ever, an official document of the State of Israel unequivocally acknowledged the existence of discrimination against Arabs in Israel and established a number of basic facts regarding Arab society in the country:

1. the Arab population of Israel is not a migrant minority but rather an indigenous minority (homeland minority), descended from the population that had previously constituted the country's majority population;
2. the Arabs in Israel carry with them the outcome of the Nakba of 1948. The majority of them identify with the Palestinian people, and even more so with the Arab people;
3. except for a few partial rights relating to language, law, and religion, the Arabs in Israel possess no collective rights;
4. the Arab minority in Israel suffers from discrimination in employment, land, and financial allocation and is at the bottom of the socioeconomic ladder in the country;
5. this discrimination and deprivation run counter to the rules to which the State of Israel and its institutions are legally obligated and are therefore unacceptable.

The Or Commission determined that the government is responsible for closing the gap between Jewish and Arab society in Israel. It also established that the state and its institutions must internalize and implement the principle of equality within the state legal system. Among other things, the commission recommended allocating funds that are proportionate to the Arabs' percentage of the population and implementing affirmative action in appropriate realms. The commission also identified several high priority issues, including the allocation of land for housing and industrial areas, due representation in government institutions and the public sector, the closure of gaps in education, and addressing the problems of the Bedouin community, whose level of poverty is the worst in Israel.

The Or Commission formulated its recommendations regarding the government's treatment of Arab society as "the most sensitive and important domestic issue facing Israel today." It continued, stating that

It requires the personal involvement and leadership of the prime minister. The issue has been neglected for many years and has not been dealt with appropriately. It demands immediate, medium-term, and long-term action. State action must be focused on providing true equality to the country's Arab citizens. Israel's Arab citizens' right to equality stems from the essence of the State of Israel as a democracy and from this right's nature as a basic right of every citizen. Discriminatory treatment contradicts the basic right of equality that, in the view of many, is part of man's right to human dignity. This is undoubtedly true in the case of discrimination on the grounds of race or nationality. Therefore, the state must take action to wipe clean the stain of discrimination against its Arab citizens, in its various forms and expressions.

There is general agreement regarding the vital necessity of achieving this goal. Security authorities, including the General Security Service, have repeatedly emphasized its great importance. The state must initiate, develop, and operate programs, with an emphasis on budgets, that will close gaps in education, housing, industrial development, employment, and services. Special attention should be paid to the living conditions and the hardships of the Bedouin. This issue can no longer be ignored or marginalized. By means of its most senior officials, the state must work to close these gaps quickly and in a clear and energetic manner, determining clear and tangible goals and definite timetables.

The state's role in this context is not limited to material matters. Government agencies must find the means to allow Arab citizens to express their culture and identity in public life in an appropriate and respectable manner.

The recommendations of the Or Commission regarding closing the gaps in education, the issue of due representation, and the Bedouin sector were adopted by the Ministerial Committee on the Non-Jewish Sector under the leadership of the prime minister at the time and became government resolutions. At the same time, the government established a ministerial

committee, the Lapid Committee, to address the conclusions of the Or Commission that had not been included in the government resolutions and to make recommendations about their implementation. The Lapid Committee began its report by stating that the government of Israel regarded the events of October 2000 as a warning sign in its relations with Arabs in the country. The committee determined that the Israeli government was obligated to make a normative change in the mutual relationship between Jews and Arabs, while recognizing the right of each sector to be different from the other and to ensure that Arab citizens could express their culture and their identity. The committee also emphasized the government's policy of achieving true equality in rights and obligations between Jewish and Arab citizens as quickly as possible. The Lapid Committee acknowledged that a large majority of the country's Arab population is law abiding and maintains order, accepts the rules of democracy, and aspires toward integration into Israeli society. The committee emphasized that the government recognized the plight of the country's Arab community as depicted in the Or Commission's report, and would make decisions on the matter, given the need to make addressing the Arab sector a high priority.<sup>3</sup>

The ministerial committee's recommendations, which were submitted to the government on June 1, 2004 and approved by Government Resolution No. 2015 two days later, included the following:

1. *the establishment of a government authority for the advancement of minority sectors*—The aim of this authority is to address the unique problems of the non-Jewish sectors in Israel (replacing the provisional committee). The authority's responsibility is to ensure the implementation of relevant government resolutions, maintain ongoing contact with the different government ministries with regard to the administration of the minority sectors, and report on these matters to the prime minister and the ministerial committee;
2. *integration of the Arab sector into the framework of civilian national service*—This includes an expansion of the existing volunteer-service frameworks to accommodate and absorb young men and women aged seventeen and older from the minority sectors in Israel. The goal of service is to impart the values of volunteerism, mutual solidarity, and active citizenship and to facilitate the individual development of the volunteers taking part in the program. Active service constitutes an

alternative path for the practical integration of members of the Arab sector into state frameworks and civil society;

3. *the formulation of outline plans and master plans for Arab towns and villages*—This measure is intended to facilitate the marketing of land in accordance with the needs of these localities, put an end to the phenomenon of illegal building, and designate some of the additional land for building joint industrial areas to be shared by Jewish and Arab municipal authorities;
4. *introduction of a “Learning about the Other Week”*—This week will be devoted to educating the youth about the attributes of different sectors and ethnic groups within Israeli society, emphasizing not only their different customs, cultures, languages, and so forth, but also their equality as citizens of Israel.

The report also contained a list of government resolutions—some that had been implemented and others that had not yet been implemented when the report was submitted—regarding municipal services and industrial development, identity and citizenship, the land issue, reducing disparity in employment and education, due representation, and Israel’s Bedouin, which advance and address the conclusions of the Or Commission Report. The report also included recommendations for the representatives of the Arab population, who refused to cooperate with the committee on the grounds that it was not balanced.

Thus, the events of October 2000 and the conclusions of the state commission of inquiry on the matter appeared to bring about changes in the understanding of decision makers in Israel, who now regarded the status of the Arab minority as an issue of strategic national importance to the state. Israel publicly recognized the failure of the policies it had taken toward its Arab population since the establishment of the state and acknowledged that providing this population with full equality under the law, as individuals and as a group, was a national interest for ensuring social stability and economic prosperity. Decision makers also appeared to have understood that a policy resulting in the intensified integration of the Arabs in society and the economy would serve Israel’s national interest. On this basis, public representatives over the years have continued to make statements reflecting their commitment to the spirit of the conclusions of the Or Commission. For example, Prime Minister Ehud Olmert expressed sentiments of reconciliation

toward the Arab population in his declaration that “the Arabs of Israel are not a strategic threat, and I do not view them as a strategic threat.” He also acknowledged the existence of discrimination against the Arab population in Israel, some of which has been unintentional but nonetheless has had an impact, and called for educating the citizens of Israel that the country’s Arabs are citizens with equal rights. Olmert also emphasized that the responsibility for improving the condition of the Arab population lies primarily with the Israeli government and state institutions.<sup>4</sup>

In 2014, President Reuven Rivlin attended a ceremony commemorating the massacre at Kafr Qasim and, on behalf of the state, requested forgiveness from its residents. In his remarks at the event, he declared that

the State of Israel will also always be the homeland of the Arab population. . . The Arab population of the State of Israel is not a marginal group in Israeli society. We are talking about a population that is part and parcel of this land, a distinct population with a shared national identity and culture, which will always be a fundamental component of Israel society.<sup>5</sup>

President Rivlin acknowledged that Israel’s Arab population has suffered from years of discrimination in budget allocation, education, infrastructure, and the industrial and trade areas. He also noted that “poverty and a sense of deprivation provide a breeding ground for nationalist and religious extremism, and we ourselves fan these flames when we do not insist upon the principle of equality between citizens of the State of Israel.”<sup>6</sup>

In the years that have passed since the Israeli government adopted the Or Commission Report, successive governments have taken different steps for the advancement of Arab society in Israel. Among other things, this has included formulating multi-year development programs for Arab towns and villages, including budgetary frameworks and detailed performance targets, with the aim of equalizing the level of development in these localities to that of the overall national level. Projects for developing the internal infrastructure within these localities, including sewage, public buildings, the paving of roads, and the development of access roads to the localities themselves, were all implemented. In 2007, Israel established an Authority for Economic Development in the Arab, Druze, and Circassian Sectors within the Prime Minister’s Office, with the aim of intensifying the integration of the Arab population within the state economy. Also in 2007, the Authority

for Civilian National Service in Israel opened its doors to young Arab men and women, and an effort was made to normalize the status of Bedouin settlement in the Negev.

However, the State of Israel has yet to formulate a clear, overall conception regarding the future status of Arab society in the country. The actions taken by the state following the recommendations of the Or Commission did not derive from any strategic national decision. The Lapid Committee detailed the Or Commission's recommendations for immediate and highly visible actions, but the government ministers did not ensure their implementation in practice.<sup>7</sup> According to Prof. Ruth Gavison, the government's goal in establishing the Or Commission was to create a different channel for conveying criticism and protest that was being voiced against the government in light of its unsuccessful performance and to enable it to make it through the elections in one piece.<sup>8</sup> Thus, it appears that the Lapid Committee, some of whose members opposed the adoption of the recommendations of the Or Commission, was largely intended to empty these recommendations of all their practical substance.

In any event, the subsequent Israeli governments of the past decade also lacked an overall vision or view on the subject. Actions taken in the spirit of the Or Commission have not been part of a national strategic plan for closing the gaps between Arab and Jewish society and for effecting the Arabs' full social and economic integration into the state, based on their status as equal citizens. The fact of the matter is that the policy enacted over the past decade to facilitate the "economic integration" of the Arab population has typically been anchored in security and economic considerations. Furthermore, this policy has sometimes been accompanied by their continued political and cultural sidelining and legislative initiatives aimed at ensuring the Jewish character of the state.

In the meantime, relations between the Jewish majority and the Arab minority have grown increasingly tense over the past decade. The downturn in relations has been fueled by three main factors. The first has been the Arabs' continued sense of deprivation and discrimination, as well as their demand to gain recognition and rights as an indigenous national minority. In this context, leaders of Arab society in Israel produced the "Future Vision" documents of 2006–2007, which were viewed by the majority of Israeli Jewish society as expressing an intent to eradicate the Jewish character of

the State of Israel. The second factor fueling the deterioration in Jewish-Arab relations in Israel has been the hatred and racism expressed toward Arabs by segments of the Jewish society, on the one hand, and the growing religious fervor and political radicalization of Arab society, on the other hand. The third factor has been the continuing Israeli-Arab/Palestinian conflict and its multiple violent manifestations (most recently, the Second Lebanon War in the summer of 2006 and Israel's military operations in the Gaza Strip in December 2008, November 2012, and July and August 2014), which increased the inherent tension between the Jewish and Palestinian Arab national narratives regarding the establishment of the State of Israel.

Some segments of the Jewish population are convinced that Israel is facing a problem of irredentism,<sup>9</sup> as the Arab minority on the whole is unable to identify with the state and cannot help but identify with the “enemy”—the Palestinian people. According to this view, irredentism is responsible for the ongoing tension in Jewish-Arab relations, which is manifested in—among other things—the increasing incidents of disorder and protests against the state led by the Arab leadership over time. The Arabs are viewed as a “fifth column,” a threat that could potentially “join our enemies, fight against us, and leave our land” (Exodus 1:10). Senior government leaders (such as Avigdor Lieberman) and various right-wing movements in Jewish Israeli society regard this as a major cause of the Jews' lack of trust for the Arabs.

The mirror image of this dynamic among the Arab population is the genuine fear of transfer. In the last few years, this fear has been fueled by widespread discussion within the Jewish population of the Arab “demographic threat.” Academics and politicians have warned that the state is in danger of losing its Jewish character and, as a result, becoming a binational state. The plan of the political party Yisrael Beiteinu (“Israel is our home”) for exchanging populated pieces of land with the Palestinian Authority has only intensified a fear of mass dispossession. According to this plan, the Arab localities of Wadi Ara and Israel's “Triangle” region would come under Palestinian sovereignty. The Arabs fear that the legitimacy being granted to the discourse on the subject will ultimately serve to legitimize action in this direction.

Arabs in Israel are also concerned by the fact that the Israeli police continues to be quick to pull the trigger when Arabs are concerned. The numerous cases in which police have killed Arab citizens without being

held accountable for their actions have exacerbated this concern, as well as the conclusion of the police's Internal Investigations Department—charged by the Or Commission for investigating all the deaths that occurred during the events of October 2000—that indictments should not be filed against any members of the police force. These factors should be considered together with the bitter feelings toward the continuing disparity in the police response given to Arab society compared to Jewish society. According to the state comptroller reports from recent years (2012–2013), only some of the Or Commission's recommendations for strengthening the relationship between the Israeli police force and the Arab community and increasing its involvement in preventing crime and violence have been implemented in practice.<sup>10</sup> The 2013 report noted that the two-phase plan approved by the minister of public security in March 2010, which in the first phase included the establishment of special patrol units and fourteen organic police units in stations that would gradually provide a solution for all the localities in the minority sector, had not been completed. The minister of public security had called for the establishment of three such organic units by the beginning of November 2011, but two years after the government resolution, no special patrol units had been set up and the establishment of the three organic units had yet to be completed. The report also indicated that the community-based flagship program of policing (“a city without violence”) was almost non-existent in the Arab sector.<sup>11</sup>

Israel's Arabs, whose Israeli citizenship greatly influences their identity, therefore oppose the plan for the exchange of populated land areas and object to the police's repeated killings of young Arab men and the neglect and deprivation in the police's inadequate handling of Arab society. They regard these phenomena as injurious to their civil status within the state. As far as they are concerned, Israel has been the center of their political, economic, and social existence since its establishment, and their future lies within the borders of the state. From their perspective, they have proven their loyalty to the state throughout its entire existence by refraining from actively participating in the Palestinian Arab national struggle, which pointed to their ties to the state and their sense of belonging as citizens. In their view, they have proven this by the non-violent modes of protest they have employed during military clashes in the context of the Israeli-Arab/Palestinian conflict in recent years, as well as in regards to socioeconomic issues. Indeed,

their challenging of the Jewish character of the state and their demand for recognizing their rights as an indigenous national minority (articulated in the “Future Vision” documents) have also been advanced through peaceful means.

The heads of Israel’s security system—the Israeli police force and the General Security Service—clearly have expressed the position that the Arabs in Israel do not pose a threat to state security and understand their struggle for equal rights as the root of their grievances and protests. Jewish political leaders and public figures in Israel have repeatedly stated that the Arab population is a fundamental component of Israeli society and that its advancement and integration into Israeli social and economic life, on the basis of full and equal citizenship, is of utmost importance for the State of Israel’s social, economic, and moral resilience. However, these declarations and positions of the heads of Israel’s security and political system have not led to the much-needed change in the way that the state and Jewish society treats the Arab-Israeli population. In reality, the mutual fear of both populations is a factor that encourages and intensifies the rupture between Jews and Arabs.

Public discourse has addressed and considered diverse ways of mitigating this division. Jewish society has examined in-depth the implications of the country’s Arabs to be recognized as an indigenous national minority that is entitled to collective rights. There have been disagreements regarding the use of the term “indigenous” due to its implication of moral superiority vis-à-vis the Jewish majority, which the Arabs view as a “settler” or “immigrant” society. The intention behind using the term “indigenous” appears to be Israel’s transformation from the nation-state of the Jewish people into a “state of all its citizens.” Others regard the use of “indigenous” as legitimate and factually accurate and oppose using the term “immigrant” with regard to the Jewish side. The question of collective rights has also been a bone of contention in the discourse within Jewish society due to its possible political and legal implications. This raises the question of the right to the land, in all its severity, and reflects the fundamental tension between the two primary narratives of the establishment of the State of Israel that is so intrinsic to its experience: from the perspective of the Jewish majority, Israel’s establishment fulfilled the Jewish people’s right to self-determination in its historic homeland; from the perspective of the Palestinian Arab minority, the

state's establishment resulted in a historical injustice of exile and land theft and feelings of exclusion and alienation from the identity of the Jewish state.

The Or Commission addressed the problematic nature of majority-minority relations in the country as follows:

Minority-majority relations are problematic everywhere, especially in countries that define themselves according to the nationality of the majority. The dilemmas that arise in such states have no ideal solutions, and some argue that there is a fundamental contradiction between the principles of a majoritarian nation-state and those of liberal democracy.

The Or Commission sought to address the issue of majority-minority relations, and its recommendations for changing the status of the Arabs as a minority in the country and improving their condition were part of this effort.

Israeli President Reuven Rivlin has proposed a different way of looking at the problem and its solution. He believes that the social reality that has evolved in Israel, which today consists of four primary “tribes”—Zionists, religious Jews, ultra-Orthodox Jews, and the Arabs—requires a transition from the standard conception of majority-minority relations to a new approach of partnership between the sectors. In this context, he has called for the formulation of a Jewish-Arab vision of civil partnership concerned with creating a civil language, building a joint economy, and crystallizing a “shared Israeliness.”

In any event, the trend among most members of the Jewish and Arab population appears to be one of mutual recognition and integration. Arab society has developed an approach of adaptation to the Jewish majority community in whose midst it lives, after a long road of social and cultural experimentation with it, while Jewish society increasingly views the integration of Arabs into the economy and society as an important asset. The Arab political leadership (as represented by the Joint List in the twentieth Knesset) currently states its intention to focus on improving the condition and status of Arab society in Israel and to intensify its integration into Israeli society and the state economy.

On this basis, the state's recognition of the importance of the processes of adaptation and integration—which Arab society has been undergoing since the establishment of the state—are likely to contribute positively to the Arabs' sense of belonging to the country, without harming their

cultural and community identity. Such a policy, formulated on the basis of equality and in partnership with representatives of the Arab public, will serve Israel's national interest and ensure the state's legitimacy in the eyes of the international community.



**PART I:**

**THE REALITY OF ARAB LIFE IN ISRAEL**



## Chapter 1: **The Legal Reality**

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### **The Problematic Status of the Arabs in Israel according to the Or Commission**

At the beginning of the report it published in the aftermath of the events of October 2000, the Or Commission offered the following characterization of the fundamentally problematic status of the Arab minority in Israel:

Minority-majority relations are problematic everywhere, especially in countries that define themselves according to the nationality of the majority. The dilemmas that arise in such states have no ideal solutions, and some argue that there is a fundamental contradiction between the principles of a majoritarian nation-state and those of a liberal democracy. In any event, the achievement of reasonable harmony in majority-minority relations is a difficult task that is the responsibility of all sectors of society. It requires special effort on the part of the state institutions that express the hegemony of the majority, in order to balance out the harm caused to the minority as a result of its inherent inferiority in number and influence. Refraining from making such an effort, or doing so in an insufficient manner, creates among the minority population a feeling and reality of deprivation that may intensify with the passage of time. This characterization is also applicable to the condition of the Arab minority in Israel, which is discriminated against in many respects.<sup>1</sup>

Later in the report, the Or Commission listed a number of unique factors that exacerbate the problematic sociopolitical status of the Arab minority in Israel:

First, the population of the Arab minority is an “indigenous” population that views itself as subject to the hegemony of a majority that, for the most part, is not indigenous. The Arab minority’s self-perception as an indigenous minority intensifies its self awareness and the validity of its demands, especially in

the land of its forefathers, in light of the difficulties raised by the Jewish majority, which it perceives, in contrast to itself, as an “immigrant” majority. This equation of “indigenous” minority versus “immigrant” majority presents the potential for mounting tension.<sup>2</sup>

Second, the Arab minority is an incarnation of a majority population that only became a minority in contemporary times. The Arab sector’s transformation into a minority constituting less than 20% of the population of the state was not easy for the Arab population to accept and intensified its refusal to be labeled as “minorities” by state institutions. The Arab population’s awareness of the fact that it is part of a larger majority in the Middle East has also served to intensify its refusal to be defined as a minority.<sup>3</sup>

Third, the establishment of the state has been ingrained in the memory and consciousness of the Arab minority as the *Nakba*—the most difficult collective trauma in its history—and with a feeling that the state was established on the ruins of the Palestinian community. This situation makes it difficult for the Arab minority to identify with the symbols and substance of the state, which applaud the Jews’ victory in the conflict.<sup>4</sup>

Fourth, as a result of the Zionist movement’s victory in the struggle for the establishment of the state, Zionist ideals such as “settlement” and “the ingathering of the exiles” became fundamental values and principles of the Jewish state. As a result, the Arab minority found itself subject to the expropriation of land for the masses of Jewish immigrants that arrived in the country and in a reality of “present absentees.” They were also negatively affected by building restrictions and by regional Judaization plans, such as the “Judaization of the Galilee,” which the state perceived as legitimate. In addition, the Arab minority also finds it extremely difficult to accept Israel’s definition as the state of the Jewish people, which grants rights to Jewish immigrants and citizens, which, as a minority, it does not enjoy. As a result, there is an increasing sentiment among members of the Arab minority that the Israeli democracy is not as much of a democracy for them as it is for the Jewish majority (a political system referred to in some academic circles as “ethnic democracy” or “ethnocracy”).<sup>5</sup>

Fifth, from a national perspective, the Arab minority is part of the Palestinian people and the broader Arab nation, with which Israel is in the midst of a long-running conflict. The Arab minority's identification over the years with the Arab countries on a national, and in some cases, social, and family level, and with the aspiration to establish a Palestinian state has resulted in the feeling among the Jewish majority that the country's Arab population constitutes a potential threat and therefore must be subject to a tight system of control. During the early years of statehood, this policy was manifested in military government [over the Arabs of the country], and after its termination in 1966, security authorities continued to exercise their control in various ways. This security-oriented approach, which, according to the Arab minority, is inconsistent with civil rights, has intensified their feelings of alienation toward the state.<sup>6</sup>

Following a survey of the sociopolitical dimensions of the issue, the commission turned to the legal dimension:

Recently, the status of the Arab minority in Israel has been characterized and weakened by the fact that it lacks substantial collective rights. The State of Israel has clearly granted full civil rights to all members of the Arab minority but only as individuals. Unlike states whose constitutional orders determine collective rights for the minorities in their midst, Israel has never granted such rights to its Arab minority. The Arab sector does enjoy a number of rights that are collective in character. Particularly prominent is the recognition of the Arabic language as an official language and the operation of educational programs for Arabs. The Arab minority also enjoys collective rights based on ethnic belonging, such as a religious legal system for issues of personal status and the possibility of days of rest according to religion. These arrangements, however, were established primarily based on practical considerations, on a case-by-case basis, and have not been enshrined in a fundamental recognition of the rights of Arabs as collective rights as members of a different people. The state has recognized the separate existence of the Arab sector as a population that is not meant to integrate into majority society, but it has not based this separate existence on a binding legal

foundation. This treatment of Arab citizens has resulted in the accusation leveled on their part that the state regards them only as a “demographic” group and not as a national minority. This has increased their feelings of vulnerability and deprivation, which are also fueled by the blatant existence of collective rights for the Jewish majority. These rights have found expression in the Law of Return and the citizenship laws, in the normative definitions of the systems of education, communications, and law, and the unique institutions of Jewish society, such as the JNF [Jewish National Fund] and the Jewish Agency. It is also expressed in the state’s legal definition as a Jewish state in a manner that allows the majority to enforce through legislation the consequences of this definition on the minority. With regard to the lack of collective rights for the Arab sector, it has been said that “the principle of equality, which requires the same law for Jews and non-Jews, is applicable in the realm of personal entitlement. It does not apply in the realm of collective rights.”<sup>77</sup>

As clearly reflected in the Or Commission Report, the status of the Arab minority in Israel has an important legal dimension. However, it must be noted from the outset that there is a significant disparity between the law and reality. In Israeli law, in both legislation and case law, discrimination based on group membership is illegal. However, this does not mean that it does not occur in the sociopolitical reality of the State of Israel. This gap stems in part from extralegal influences such as religious, economic, social, security-related, and other factors. One example is the social prejudices against the Arab minority, and the feelings of hostility, threat, and fear stemming from the violent national conflict between the State of Israel and the Palestinian people, of which the Arab minority regards itself as an integral part. We can therefore conclude that although law and the legal system are important parts of the solution to the problem of discrimination, and despite the significant measures that have been taken to curb the phenomenon, they do not provide a complete solution. Law in itself is too limited a means to effect the broad and deep-seated social changes that are necessary in a society as divided as Israel. Therefore, eradicating discrimination against the Arab minority also requires efforts in realms beyond that of law, for the sake of the entire society.

It is common practice to consider the inequality of and discrimination against the Arab minority in Israel (and minorities in general) from a legal

perspective by distinguishing between two kinds of rights: individual rights and collective (or group) rights.

### **Personal Rights and the Prohibition of Discrimination**

A personal right is a right of an individual—a general right that every person deserves. It is not unique to specific individuals belonging to a certain group, and belonging to a group neither adds nor detracts from it. These are the classic human rights, which are also referred to as civil rights or political rights. They include the right to freedom of expression, the right to property, the right to liberty, the right to freedom of occupation, and others. They are usually formulated in general terms that do not distinguish between people based on race, religion, nationality, gender, or other such grounds. Personal rights can be claimed by any individual, and the individual alone is permitted to forfeit them. In Israel, some personal rights have been recognized by legislation and others by case law. One example is Basic Law: Human Dignity and Liberty, which in section 2 stipulates that “there shall be no violation of the life, body or dignity of any person as such”; in section 3 states that “there shall be no violation of the property of a person”; and in section 7(a) determines that “all persons have the right to privacy and to intimacy.” Basic Law: Freedom of Occupation also confers personal rights and in section 3 stipulates that “every citizen or resident has the right to engage in any occupation, profession or trade.” Another example is the case law’s recognition of freedom of expression as a basic right.

There appears to be fundamental agreement, including among the Israeli political leadership, that the Arab minority is entitled to equality before the law in the realm of personal rights. This was promised in the Declaration of the Establishment of the State, which was signed in 1948 and stated that “the State of Israel . . . will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex.” The declaration also appeals “to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the state on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.” The principle of equality is one of the most important and central principles in Israeli constitutional law. Equality, more than any other value, is the common denominator and foundation for all basic rights of the individual, as well as all the other values on which democracy is based.<sup>8</sup>

The right to equality as a general principle has yet to be explicitly specified as an overriding constitutional principle in the Basic Laws of the State of Israel.<sup>9</sup> Some maintain that the “human dignity” referred to in Basic Law: Human Dignity and Liberty also encompasses the general right to equality. Others espouse a narrow position, and hold that the right to equality is included in the right to human dignity only in the event of a violation of equality on the grounds of group affiliation, such as race, sex, religion, nationality, and so forth. Disagreement also prevails regarding whether the High Court of Justice (HCJ) is permitted to annul legislation that violates the right to equality as such.<sup>10</sup> Nonetheless, the principle of equality has been recognized and developed over the years in the rulings of the High Court as an interpretative principle according to which it is presumed, for the sake of interpreting the law, that the legislator intended to maintain and advance equality as an executive value guiding all government authorities, and as a basic right.<sup>11</sup>

The essence of equality is the prohibition of discrimination based on group affiliation such as race, sex, religion, nationality, and other such factors (these are the traditional generic rationales of equality). This prohibition is applicable to the state and all other public bodies.<sup>12</sup> Under the principle of equality, public bodies within the State of Israel are prohibited from discriminating—that is, from providing different treatment to equal parties—unless they are justified in doing so by some material reason. This prohibition is applicable to all actions of government, from the allocation of funding and other resources to the appointment of public positions. Public authorities are viewed as trustees of the public as a whole and are not permitted to show preference for one sector of the public over another unless they have a justified reason for doing so.<sup>13</sup> Such generic discrimination based on group affiliation is discrimination that “does mortal injury to human dignity.”<sup>14</sup>

Over the years, Israel has enacted diverse legislation prohibiting discrimination in certain areas. They include:

1. Section 42 of the Employment Service Law, 1952, which stipulates that “the employment service bureau will not discriminate based on sex, sexual orientation, personal status. . . age, race, religion, nationality . . . and will not deny a person to someone in need of a worker for these reasons, regardless of whether or not the worker was sent to work by the employment service.”

2. Section 2(a) of the Employment (Equal Opportunities) Law, 1988, which prohibits employers (public and private) from discriminating against their workers or those seeking work “based on age, sexual orientation, personal status. . . race, religion, nationality . . .” in being accepted to work, in their work conditions, and advancement in employment.
3. Section 3(a) of the Prohibition of Discrimination with Products, Services, and Entry into Public Places Law, 2000, which stipulates that “anyone working in providing a public product or service or entry into a public place will not discriminate . . . based on race, religion or religious group, nationality, country of origin, sex, sexual orientation . . .”
4. Section 2(b) of the Mandatory Tenders Law, 1992, which states that “the tender holder shall not discriminate against bidders based on disability, sexual orientation, personal status, age, parental status, race, religion, nationality . . .”
5. Section 3a(5) of the Budget Foundations Law, 1985, which stipulates that “the official responsible for the section of the budget shall determine, in consultation with the Attorney General, equitable standards for dividing up the sum in the relevant budget section for the purpose of supporting public institutions.”
6. Section 9 of the Rules of the Council for Higher Education (Recognition of Institutions), 1964, which states that “in the acceptance of students and the appointment of academic faculty, the institution for higher education will not discriminate between different candidates based solely on their race, sexuality, religion, nationality, or social status.”
7. Section 4(a) of the Patient’s Rights Law, 1996, which determines that “a treatment provider or a medical facility will not discriminate between patients on grounds of religion, race, gender, nationality, place of birth or any other differentiation of such nature.”

The provisions prescribed in the legislation that prohibits discrimination deal only with a small portion of the different fields of law. Therefore, in the absence of a general legal provision, which would anchor the principle of equality, the Israeli High Court has attempted, over the years, to fill the vacuum that has been created and has applied the principle of equality through interpretive means in the realm of individual rights, as well as in areas lacking a specific law that prohibits discrimination. This effort has been based on the Declaration of the Establishment of the State, the fundamental

principles of Israeli law, and Israel's values as a Jewish and democratic state. One example of this phenomenon is the well-known ruling in the matter of Ka'adan (HCJ 6698/95).<sup>15</sup> Adel and Iman Ka'adan were an Israeli Arab couple who sought to establish their place of residence in Qatzir, a settlement that was classified as a cooperative society. The settlement was established on state land that was allocated by the state (the Israel Lands Administration) to the Jewish Agency in a "licensing agreement" for development. The Ka'adans contacted the cooperative society with the intent of purchasing a home or a parcel of land in the settlement but were refused because they were Arabs, on the grounds that Qatzir's lands were designated for Jews only. The High Court upheld the couple's petition based on the premise that the state (the Israel Lands Administration) was not permitted to allocate land, directly or indirectly (by means of the Jewish Agency) for the establishment of a settlement based on discrimination between Jews and non-Jews.<sup>16</sup> Such allocation, it reasoned, was injurious to the couple's right to equality, as it involved differential treatment on the grounds of nationality, and separate treatment is illegal.<sup>17</sup>

In reference to the ostensive contradiction between the values of the State of Israel as a Jewish state and the obligation to respect equality, Chief Justice Aharon Barak wrote as follows:

However, the values of the State of Israel as a Jewish and democratic state do not, by any means, suggest that the State will discriminate between its citizens. Both Jews and non-Jews are citizens with equal rights and duties in the State of Israel. The State is the state of the Jews; the regime that exists in it is an enlightened democracy, which grants rights to all citizens, Jews and non-Jews alike . . . The State of Israel is a Jewish state in which various minorities live, including the Arab minority. Each of the minorities living in Israel enjoys complete equality of rights. It is true that members of the Jewish nation were granted a special key to enter (see the Law of Return 5710-1950), but once a person has lawfully entered the home, he enjoys equal rights with all other members of the household. This was expressed in the Proclamation of Independence, which calls upon "the Arab inhabitants of the State of Israel to preserve the peace and participate in the upbuilding of the state on the basis of full and equal citizenship." There is, therefore, no contradiction between the values of the State of Israel as a Jewish

and democratic state and the absolute equality of all of its citizens. On the contrary: equality of rights for all people in Israel, regardless of their religion or nationality, is derived from the values of the State of Israel as a Jewish and democratic state.<sup>18</sup>

Relevant in this context is another significant development that has sparked lively discussion in the Knesset, the media, and the general public. On March 22, 2011, the Knesset approved the amendment to the Cooperative Societies Ordinance (No. 8), 2011 (also referred to as the “Acceptance Committee Law”). This amendment allows community settlements located on state land in the Negev and the Galilee to allocate land to candidates seeking to live in them upon the approval of an acceptance committee. The acceptance committee is authorized to deny a candidate’s acceptance to a settlement, among other things, because “the candidate is not suitable for the social life of the community” and due to “the candidate’s lack of suitability to the sociocultural fabric of the community settlement, which can be assumed to have the potential to harm this fabric.” The amendment also calls for monitoring mechanisms to prevent discrimination: a clause prohibiting discrimination, which prevents acceptance committees from refusing to accept a candidate on the grounds of race, religion, nationality, disability, personal status, age, parental status, sexual orientation, country of origin, and party or political worldview or affiliation, and the possibility of an appeal proceeding before an appeals committee.

One day after the Knesset’s approval of the second and third readings, a petition was filed with the High Court challenging the law’s constitutionality, based primarily on the argument that the law contained vague criteria that would help disguise discrimination in land allocation and the exclusion of Arabs and other groups in society. This law will be discussed in more detail below. Here, however, we note only that the High Court denied the petition on September 17, 2014 (HCG 2311/11 *Sabah v. the Knesset et al.*) and confirmed the law’s constitutionality based on ripeness, according to which—based on the majority position—the petitions were not yet ready for decision at that stage of constitutional litigation, primarily due to the absence of a broad evidentiary basis and concrete petitioners. On this basis, the court ruled that it was not yet possible to determine whether the law would detrimentally affect constitutional rights.

In the context of our discussion, however, the minority opinion led by Justice Joubbran, which was supported by Justices Arbel and Danziger, is significant. Contrary to the position of Chief Justice Grunis, Joubbran argued that the petitions were, in fact, ready for constitutional analysis, and there was reason to strike down some of the clauses that had been enacted in the amendment. According to Justice Joubbran, the criteria of “suitability to community life” and “lack of social suitability” are not subject to defined measures, and therefore result in “vague legislation.” The discretion given to the acceptance committees, he continued, was broad and excessive and opened the door to unjustified and concealed exclusion under the cover of relevant considerations. The transparency afforded in exercising this discretion was extremely limited, as was the judicial oversight of the use of this discretion. On this basis, Justice Joubbran ruled that despite the clause in the law prohibiting discrimination and the various supervisory mechanisms, the selection mechanism created under the amendment served to institutionalize a discriminatory reality, which a great deal of practical experience (including previous petitions, filed depositions, discussions of the Knesset Committee on Constitution, Law, and Justice, and different legislative proceedings) revealed. According to Justice Joubbran, the harm to the constitutional right of equality reflected in the clauses of the amendment failed to meet the standards of the limitation clause of section 8 of Basic Law: Human Dignity and Liberty and for this reason, the Knesset should be instructed to annul these discriminatory criteria.

### **Collective Rights**

Unlike a personal right to which a single individual is entitled, a collective right is the entitlement of a group. It is not a general right held by all, like an individual right, but rather derives from the unique identity of the group in question. A collective right essentially is meant to protect a minority group against the tyranny of the majority and to meet special needs of the group, such as the preservation of its language or culture. Although the individuals who belong to the group can, as individuals, claim and use these collective rights, they do so as a result of their belonging to the group in question. Legal recognition of the collective rights of a specific group may also include a demand that the authorities allocate resources to protect and advance these rights in many fields, such as language, culture, religion, education, and

communication, as well as their expression in the public realm, such as in their representation in the symbolic elements (the national anthem, the flag, state symbols, and so forth).

There appears to be consensus that the Arab minority in Israel constitutes a minority group with unique attributes in terms of language, culture, heritage, religion, and nationality. In recent decades, the demand of Israel's Arab minority for equal rights has not been only limited to personal rights but also has expanded into the realm of collective rights.<sup>19</sup> The Arab minority has also called on the state to grant it fundamental recognition as an indigenous national minority,<sup>20</sup> as well as autonomy and self-rule in many aspects of Arab life in Israel. The Israeli legislator and the Israeli legal system, however, have yet to recognize the Arab minority—in principle and in a declarative and legally binding manner—as a national minority entitled to collective rights. At the same time, on a practical level, in both legislation and case law, the Arab minority in Israel has been granted some collective rights in specific realms.

Collective rights that have been granted through legislation include, for example, the uniqueness of the Arab language as an official language of the state. The Arabic language's status as an official language in the country was anchored in British Mandate legislation—Article 82 of the Palestine Order in Council of 1922. This article, entitled “Official Languages,” stipulated that:

All Ordinances, official notices and official forms of the government and all official notices of local authorities and municipalities in areas to be prescribed by order of the High Commissioner, shall be published in English, Arabic and Hebrew. The three languages may be used in debates and discussions in the Legislative Council, and, subject to any regulations to be made from time to time, in the Government offices and the Law Courts.

The provision obligating the usage of the English language was annulled by section 15(b) of the Law and Administration Ordinance, 1948,<sup>21</sup> while the one requiring the use of English wording in the case of a contradiction was also changed,<sup>22</sup> leaving Hebrew and Arabic as the official languages of Israel. Chief Justice Barak highlighted the unique status of the Arabic language in Israel in H CJ 4112/99, which ruled that municipal signs in mixed cities must also be written in Arabic, by saying:

What makes the Arabic language unique and why is it treated differently from other languages, including Hebrew, which Israelis speak? Based on our approach, could residents of different cities, including minority groups consisting of speakers of other languages, be able to demand that signs in their cities also appear in their language? My answer to this question is no, as all those languages are not the Arabic language. The uniqueness of the Arabic language is twofold. First, Arabic is the language of the largest minority in Israel, which has been living in Israel since time immemorial. It is a language connected to cultural, historical, and religious characteristics of the Arab minority group in Israel. It is the language of citizens who, despite the Arab-Israeli conflict, seek to live in Israel as loyal citizens with equal rights, while respecting their language and culture. The desire to ensure the dignified coexistence of the descendants of Abraham our patriarch, with mutual tolerance and equality, justifies recognition of the Arabic language in municipal signing—in cities containing a significant Arab minority (between 6% and 19% of the population)—beside its older sister, Hebrew . . . Second, Arabic is an official language of Israel . . . Israelis speak many languages, but only Arabic—in addition to Hebrew—is an official language of Israel. Therefore, Arabic enjoys special status in Israel. This status is not directly applicable to the matter at hand, but it is indirectly applicable. The “officialness” of the Arabic language possesses “unique extra value.”<sup>23</sup>

In Israel, the Arabic language finds expression in the public sphere, including on postage stamps, coins and paper currency, identity cards, license plates, road signs and placards, and the publication of laws and regulations. There are television programs in Arabic, and an education system that teaches in Arabic. Nonetheless, the status of the Arabic language is not fully equal to that of the Hebrew language. For example, although it is permissible to use Arabic in the Knesset, in courts of law, and in government offices, doing so presents practical difficulties. In Israeli courts of law, proceedings are conducted only in Hebrew (subject to the obligation to provide a translator for anyone in need), and some government offices do not provide services in the Arabic language. The Planning and Building Law of 1965, for example, requires the publication of building plans in Arabic in a local planning area

in which the Arabic-speaking population accounts for at least 20 percent of the overall population (such a condition does not apply to the publication of plans in Hebrew). The Arabic language in Israel also does not benefit from mechanisms comparable to those that serve to nurture and advance the Hebrew language, such as the Law of the Supreme Institution for the Hebrew Language, 1953 (ultimately resulting in the establishment of the Academy for the Hebrew Language); the Use of Hebrew Date Law of 1998; the Yad Izhak Ben-Zvi Law of 1969 (which established a state institution for the study of the history of the Jewish Yishuv in the country); the Nationality Law of 1952, section 5(a)(4) which requires “some knowledge of the Hebrew language” as a condition for becoming a citizen; and other such instruments.

Although Arabic is classified as an official language of Israel, the High Court denied a petition that the Arabic language should be recognized as part of the collective rights of the Arab minority in Israel as a national minority. The remedies that have been accepted by the High Court to expand the use of the Arabic language have also been accepted on the grounds of the individual’s right to equality, as opposed to a fundamental recognition of the collective right to a language.<sup>24</sup> For example, as a result of the High Court’s Arab Signs Ruling, city municipalities were required to add Arabic to the municipal signs only in mixed cities comprising a substantial Arab minority and not in all cities in Israel, which would have been obliged as part of the Arab minority’s collective right to a language. In this ruling, Justice Cheshin wrote as follows:

The petitioners are therefore asking that we recognize Arab citizens of Israel as a national and cultural minority entitled, by means of the Arabic language, to the preservation and fostering of its distinct national and cultural identity. Another wish expressed by the petitioners is for us to make it incumbent upon the public authorities to implement this right of the Arab population by adding Arabic writing to street signs . . . The problem is that they did not succeed in identifying a positive source of this right in Israeli law, neither in the legislated law or the Jewish law. This is not surprising. In general, the rights recognized in our law are rights possessed by the individual, all people. Rights, as a rule, and subject to exceptions, are granted only to individuals . . . Israeli law does not recognize a collective right, with a corresponding

positive directive, to nurture the unique identity and culture of a certain group within the population, and we have not yet heard of the right of a minority to preserve and advance its language that, at the same, makes it mandatory for the public authorities to assist it [in doing so] . . . In their claim for the legal right of the Arab minority—and at the same time, the obligation of the government—to preserve and advance its language, the petitioners are asking us to create something from nothing . . . Recognition of the collective right to nurture the national and cultural identity of members of the Arab minority, as requested by the petitioners, in practice constitutes a political act, and the authority to undertake this act belongs to the political authorities and not to the court.<sup>25</sup>

The collective right to language, then, is extended to the Arab minority in a partial and qualified manner and not completely and fully.

Collective rights also have been extended to the Arab minority in the realm of freedom of religion, religious adjudication, and religious institutions. To ensure the freedom of religion and freedom of worship of all Israeli citizens, the Declaration of the Establishment of the State of Israel affirms that “the State of Israel . . . will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations.” In the realm of personal status, a degree of autonomy is extended to the Arab minority. The Israeli legislator maintained the Ottoman millet system, according to which individuals are subject to the religious law of the religion with which they are affiliated and in some cases to its exclusive authority. For example, Muslims in Israel are subject to the Sharia Courts Law of 1953, which vests broad and exclusive judicial powers in the religious courts. In addition, the Law and Administration Ordinance of 1948 and the Hours of Work and Rest Law of 1951 institutionalized the right of non-Jews to observe days of rest on their Sabbath and holidays.

In the realm of religious institutions, legislation safeguards the holy places. Section 1 of the Protection of the Holy Places Law of 1967 stipulates that “the Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings with regard to those places.” Israel also funds some of the religious services,

allocates funds to the construction and maintenance of religious institutions and houses of worship, and pays the salaries of religious clerics and various other positions. Still, the Arab minority's claim is for full cultural and religious autonomy. For example, the Arab minority has no institution that enjoys state recognition comparable to that enjoyed by the Chief Rabbinate, and there are no religious councils serving the Arab minority like the ones that provide religious services for Jews and receive local government funding. Israel has also not recognized the administrative authority and autonomy of the Muslim religious institutions over waqf assets, and control over most of these assets remains in the hands of the state. As a result, Muslim houses of worship and cemeteries have been neglected over the years, and such institutions have been denied equal funding by the Ministry of Religions.<sup>26</sup>

In the sphere of education, Israel maintains a separate public, state-funded education system for the Arab sector, including kindergartens, elementary schools, and high schools. In all these institutions, the language of instruction is Arabic and the materials studied are specially designed for Arab students. Section 4 of the State Education Law, 1953 stipulates that "in non-Jewish educational institutions, programs of study will be adapted for the special circumstances." Section 5 of the State Education Regulations (Advisory Council for Arab Education), 1996 stipulates that the council will submit a recommendation to the minister of education for "the formulation of a pedagogical educational policy for the different age groups in the educational institutions to ensure the equal status of the Arab citizens of Israel, taking into consideration their unique language and culture and their heritage."

An important amendment to the State Education Law enacted in 2000 introduced the following aim to state education in section 2(11): "to know the language, culture, history, heritage, and unique tradition of the Arab population and other populations in Israel, and to recognize the equal rights of all citizens of Israel." Still, problems exist regarding the equal budgeting of the Arab education system vis-à-vis the Jewish sector, as well as the supervision of teachers by security authorities and the disqualification of teachers whose political activities are perceived as hostile to Israel. Some have claimed that the material taught in the Arab education system does not fully express the values of Arab society, nor does it effectively express Arab uniqueness and Arabic culture (poets, authors, and history), and there is no symmetry between the students' substantial exposure to Zionist material and

Jewish culture on the one hand, and Jewish students' minimal exposure to Arabic and Islamic culture on the other hand.<sup>27</sup>

Under the category of collective rights enjoyed by the Arab minority, the arrangement to not conscript Arabs for military service should be included. Contrary to the prevalent view, Israeli Arabs are not issued "exemptions" from service in the Israel Defense Force (IDF) based on the Security Service Law or any other law for that matter. The minister of defense does not issue them official exemption certificates, and, from a legal perspective, they are obligated to serve in the army; however, Arabs are not recruited for regular army service due to government and security policy.<sup>28</sup> This raises several problems. The applicability of the Security Service Law is individual and does not recognize a collective right of exemption from military service for the Arab minority. In addition, the arrangement of non-conscription was, in practice, imposed on the Arab minority (regardless of the fact that most of its members agree with and accept the arrangement). This has implications in the way that some sectors of the population perceive the institution of citizenship with regard to the Arabs of Israel. Indeed, among some, this arrangement undermines its full validity, as military service in Israel constitutes a central and dominant component of civil cohesion and is perceived as one of the obligations of the citizens of the state.

As a result of this prevalent perception, which is problematic and uncertain, and links the equal rights of citizens of the state to their fulfillment of obligations, the Arab minority are likely to be denied benefits enjoyed by someone who performed military service.<sup>29</sup> In this context, it is important to note that the IDF applies different enlistment policies to Israel's different minority groups. For example, the obligation of military service is applied to Druze and Circassians but not to Christian or Muslim Arabs. The option of volunteering for service in the IDF is also open to the Bedouin, a subgroup of the country's Arab minority, and many Bedouin choose to do so. Nonetheless, in recent years there have been attempts to integrate the Arab minority into national civil service frameworks by extending various incentives, such as the same rights and benefits enjoyed by those serving in the military. However, representatives of the Arab population still harbor opposition to the enlistment of Arab young adults for military or national civil service.

## **Affirmative Action and Due Representation**

Due to the large disparities in Israel between the Jewish majority and the Arab minority in many spheres, which stem, in part, from the ongoing deprivation of and discrimination against the Arab minority by the governing institutions, fundamental equality cannot be achieved solely by ensuring passive formal equality between the two groups; rather, attaining fundamental equality requires active work. This is the idea underlying the implementation of affirmative action measures to advance the weak Arab minority to a better starting point. Although affirmative action appears to be injurious to formal equality, the standard view is that this strategy does not deviate from the principle of equality but rather constitutes a concrete expression and means of its actualization, as its aim is to achieve a fundamentally equal outcome by rectifying any previous violation of the principle of equality.

For example, in the name of affirmative action, the High Court came to the defense of a government plan to establish permanent settlements in the Negev for the Bedouin sector alone (HCJ 528/88, *Avitan v. Israel Lands Administration*).<sup>30</sup> In this ruling, a Jewish Israeli citizen named Eliezer Avitan petitioned the High Court against the government of Israel and the Israel Lands Administration (ILA) for discrimination on the grounds of nationality and for violation of the principle of equality. The petition was filed after the ILA refused to lease him a plot of land in the settlement of Segev Shalom, which, on the basis of government resolutions on the issue, had been designated for Bedouins only. The government policy underlying the decision—that of leasing plots of land in the settlement to solely Bedouins—stemmed from the fact that Bedouins in the State of Israel constitute an ethnic group with a unique character. The High Court upheld the state's position that it is in the public interest to help the Bedouin settle permanently in urban settlements due to the provision of proper public services (education, health, sanitation, and the like), and other public interests related to the clearing of state lands that were seized by the Bedouin and the demolition of structures built without permits. In this spirit, Justice Or maintained that

this interest, in conjunction with the need to change the decades-old values, customs, and practices of the Bedouin sector, justifies giving Bedouin precedence in the awarding of plots of land, at subsidized terms, in the settlement that was meant to facilitate their permanent settlement. Giving them precedence over the

petitioner and others like him is grounded in considerations that are relevant and reasonable, and his petition to be leased a plot of land at the same terms at which the plots are leased to Bedouin is to be denied.<sup>31</sup>

One expression of the policy of affirmative action is the assurance of due representation in the Israeli civil service. This need stems from the principle of equality that is essential to the just operation of the civil service, which is supposed to represent all layers of Israeli society. Expressions of due representation of the Arab minority in Israel can be found in legislation and case law, particularly in the appointment of Arabs to positions in the civil service and other public bodies. Despite the existence of legislation prohibiting discrimination in employment, the percentage of Arab employees in the civil service has always been disproportionately low in comparison to their percentage of the population.<sup>32</sup> For this reason, the year 2000 witnessed the enactment of two significant legislative amendments concerning affirmative action for the Arab population in state-owned companies and the civil service.<sup>33</sup> Both amendments moved quickly through the Knesset Committee on Constitution, Law, and Justice under the chairmanship of Prof. Amnon Rubinstein.<sup>34</sup> The Government Companies Law, 1975 was amended to incorporate section 18(a)(1), which, in subsection (a), stipulates that “the constitution of the board of directors of a government company will give expression to the due representation of the Arab population.” Moreover, subsection (b) stipulates that “until the achievement of such due representation, ministers shall appoint, to the extent possible under the circumstance in question, directors from among the Arab population.” The provisions of this clause, which apply to the board of directors of state-owned companies, also are applicable under section 60(a) of the Government Companies Law to the appointment of Arabs to positions in corporations established by law and in other bodies established under statutory provisions. The attorney general indicated that this amendment was enacted to address the small number of appointments from the Arab sector to such positions and emphasized that “this provision, therefore, is meant to achieve an outcome that it is worthy to strive for in these and other bodies, based on the fundamental rules of equality and fairness, even if it were not grounded here in Knesset legislation.”<sup>35</sup>

In addition, section 15(a) of the Civil Service (Appointments) Law, 1959 was amended to stipulate “the provision of appropriate expression

of representation, under the circumstances in question, of members of the Arab population, including Druze and Circassians.” According to Prof. Amnon Rubinstein, such laws are relatively rare in other places and have no equivalent in many of the world’s Western democracies.<sup>36</sup>

A report from November 2014 by Israel’s Civil Service Commission indicated that as of 2014, of the 73,543 state employees, 6,609 were members of the Arab, Druze, and Circassian populations, accounting for 8.9% of all state employees.<sup>37</sup> Despite the 112% increase in Arab, Druze, and Circassian population that were recruited into the civil service between 2007 and 2012, the trend is still inconsistent and the overall rate of minorities submitting their candidacy for tenders in the civil service is low. The data presented in the report also indicates that the past five years have witnessed a moderate and consistent 18.4% increase in the percentage of Arab, Druze, and Circassian employees among all civil service employees. This trend is indicative of positive change regarding the due representation of minorities in the public sector. It is important to note that the aim for due representation for this population by 2015 was set at 10%.<sup>38</sup> In addition, the “A-Team of Directors of Government Companies” program, initiated by then Finance Minister Yair Lapid and Government Companies’ Authority Director Ori Yogev, included reserving 10% of all government company director positions for different minority groups.<sup>39</sup>

Directives issued by the attorney general also addressed the ways in which the provisions contained in legislation and case law regarding due representation of the Arab sector are to be implemented. For example, the attorney general instructed government authorities as follows:

The minister appointing or proposing a candidate is to assess whether the composition of the body to whose membership the candidate in question is to be appointed gives appropriate expression to representation of the Arab population. If this is not the case, he must investigate the possibility of appointing a candidate from the Arab sector and take reasonable measures, in compliance with the law, to identify a suitable candidate. In the event that the appointment is being made by the government or requires its approval, the government must ensure—prior to the appointment or approval—that this investigation has been carried out.<sup>40</sup>

The attorney general's directive also stipulates that "this legal provision should be regarded as part of an ongoing effort to increase equality for the Arab population in different realms of life in the country."<sup>41</sup>

The case law of the High Court has expanded the statutory obligation to extend due representation to the Arab minority in government companies and the civil service. It has also applied this obligation to the Israel Lands Council.<sup>42</sup> Although the legal provisions that require due representation for the Arab minority do not apply to the Israel Lands Council, the High Court ruled in HCJ 6924/98 that a doctrine had formed regarding the due representation of the Arab minority<sup>43</sup>—similar to that of due representation for women in the public sector<sup>44</sup>—and that the government must therefore consider the appointment of additional Arab representatives to the Israel Lands Council. In this context, it is interesting to note that on November 14, 2010, the Association for Civil Rights in Israel and *Itach-Maaki*—Women Lawyers for Social Justice submitted another petition to the High Court (HCJ 8318/10),<sup>45</sup> demanding the appointment of a percentage of permanent members—women and Arab—to the Israel Lands Council to ensure the due representation of these populations. In a hearing held on February 26, 2014, Chief Justice Grunis stated that the non-representation of Arabs and the underrepresentation of women in the council were unacceptable and that there appeared to be a basis for the claims regarding the underrepresentation of these populations.<sup>46</sup> At the conclusion of the hearing, it was determined that it was "appropriate for the matter to be brought before the attorney general as soon as possible so that he can take action to arrange due representation in the case of the Israel Lands Council."<sup>47</sup> In a ruling handed down on January 15, 2015, and in light of the impending elections for the twentieth Knesset, the government was instructed to issue an updated statement within forty-five days of the formation of the new government.<sup>48</sup>

University admissions in Israel also have tracks aimed at expanding Arab participation in higher education within the framework of different programs for affirmative action, including academic and social guidance and support, training in different fields, and the provision of scholarships. For example, the Planning and Budgeting Committee of the Council for Higher Education has undertaken a fundamental process in this context and, for the first time ever, as part of the multi-year program for 2010–2016, set an explicit target for making higher education accessible to minorities and ultra-Orthodox

Jews. In addition, in an agreement with the Finance Ministry, the Planning and Budgeting Committee allocated an overall budget of almost NIS 500 million over a six-year period for achieving this goal.<sup>49</sup> However, despite the ongoing trend of increasing numbers of Arab students and lecturers in higher education in Israel, a great deal still needs to be done in this area to close the gaps between the country's Arab and Jewish populations.<sup>50</sup>

In the realm of political representation, Arab citizens of Israel freely participate in the elections for the Knesset both as voters and as potential candidates for Arab or other parties. Still, section 7(a) of Basic Law: The Knesset prohibits the election to the Knesset of parties that aspire to change the state's definition as a Jewish and democratic state and to negate its Jewish character.<sup>51</sup> In contrast to the Arab sector's representation in the legislative branch, Israeli governments have typically been characterized by extremely limited participation of Arab parties. This lack of integration arises both from the aversion of the ruling parties to having Arab parties as coalition partners and from the fundamental position of the Arab parties themselves, who refuse to serve as coalition partners in Israeli governments. In the Israeli legal system, there is typically one Arab justice who serves on the High Court, while a larger number of Arab judges preside over lower courts.<sup>52</sup>

### **The Tension Between Collective Rights and Equality and Liberalism**

As we have seen, both the Israeli political system and the legal system have not recognized collective rights for the Arab minority in Israel neither in principle nor in an all-encompassing manner. Nonetheless, as discussed above, the Arab minority has been granted some autonomy, albeit not completely. Examples include the fields of education, religion, and language. Overall, Israeli law is cautious about directly intervening in the way of life of the Arab minority in areas in which, in practice, it has been granted certain collective rights. This raises the question of the tension between collective rights—that is, the consideration of the unique attributes of the minority group and non-intervention in “internal matters” in certain areas—and liberal equality, which requires protection of the individual rights of the members of the group, including the right to equality, dignity, and the freedom from religion.<sup>53</sup> How tolerant can a liberal-democratic state be toward non-liberal or intolerant types of behavior that are harmful to members of the minority

group, primarily women and children? Where does the boundary lie? The problem of protecting the “minority within the minority” is not unique to Israel; it is also found in other democratic countries that are home to significant minority groups.

In Israel, this tension is expressed primarily in the sphere of religion. Whereas in the case of the Jewish majority, some aspects of religious relations are subordinate to the rules of Israeli administrative law, other religions and sects in Israel (Muslims, Christians, and Druze) are granted a degree of autonomy in this realm within the framework of “collective rights,” as part of a multicultural and pluralistic approach. With regard to the Arab minority, this approach has been upheld since the establishment of the state until the present by both the government establishment, which has not wanted to assimilate the Arab minority into the Jewish majority, and by the political and religious leadership of the Arab sector, which has not wanted to be assimilated and has sought to maintain its unique cultural and religious character. As a result of these arrangements, it is difficult to justify intervening in the “internal affairs” of the Arab sector. This tension increases in the event of collisions between the religious values and customs of the Arab sector—which are perceived as injurious and discriminatory (including the ability of different religious courts to impose many internal limitations on members of the group)—and liberal-secular values, which are meant to protect the rights of the individual within the group (particularly women and children). In practice, these arrangements bind the members of the group exclusively to the religious norms of the community to which they belong. Therefore, tension exists between the desire to recognize the unique religious nature of the minority group and the desire to protect the rights and personal welfare of the individual within these groups.

The State of Israel has taken into some consideration the religious characteristics of its minority groups. For example, Muslim and Druze women have been exempted from submitting a photograph for the purpose of resident registration and for their identity cards. Still, in a number of areas, Israeli law has intervened in “internal matters” of the different religious groups, for example, by setting a minimum age for matrimony in the Marriage Age Law, 1951; criminalizing bigamy (even if the practice is recognized by certain religious courts) in the Women’s Equal Rights Law, 1951; establishing civil procedures for inheritance; terminating the practice of the dowry;

permitting Muslim and Christian women to submit alimony claims to civil courts instead of religious courts, as stipulated in Amendment No. 5 to the Family Affairs Court Law, 2001; and other such measures.

The need to protect the “minority within the minority” in Israel becomes sharpened by the subordination of some elements of the religious affairs of the Jewish majority to the rules of administrative law, which are not applied in a similar manner to the religious affairs of the minority groups.

### **Inequality in Budgets and Resources**

Whether defined on the level of individual rights or collective rights, the unequal treatment of the Arab population is most notably expressed in the discriminatory allocation of resources and funds.<sup>54</sup> The Or Commission addressed this issue as follows:

Arab citizens of the state live in a reality in which they are discriminated against as Arabs. The lack of equality has been documented by a large number of surveys and professional studies, it has been confirmed by judicial rulings and government resolutions, and it has found expression in reports of the state comptroller and other official documents. Despite the sometimes relatively low level of awareness of this discrimination among the Jewish majority, it is central to the feelings and views of Arab citizens. In the eyes of many—both inside and outside the Arab sector, including official assessment bodies—it is a major cause of discontent. This is also true of other realms in which not enough has been done to contend with the unique hardships and difficulties of the Arab sector.<sup>55</sup>

In a High Court decision (HCJ 240/98, *Adalah v. Minister for religious affairs*),<sup>56</sup> addressing discrimination by the minister of religious affairs against the Arab sector in the allocation of resources for religious purposes in the Budget Law, Justice Cheshin wrote as follows:

and, at least usually, we can also say that there is presently no equality in the allocation of monetary resources by the Ministry of Religions to different religious groups in Israel. This conclusion appears to be in order when we observe the large gap between the share of monetary resources allocated by the ministry to the non-Jewish population and the share of resources allocated to the

Jewish population, in comparison to the non-Jewish population's percentage of the country's overall population. Thus, although the Arab religious groups constitute approximately 20 percent of the country's population, the Ministry of Religions allocates only 2 percent of its budget to their religious needs. With regard to this gap, the facts speak for themselves.<sup>57</sup>

Still, because the justices regarded the petition as overly general and devoid of a specific concrete legal basis, the High Court ultimately denied it.<sup>58</sup> The following budget year, another petition was filed against the minister of religious affairs (H CJ 1113/99),<sup>59</sup> specifically regarding the allocation of funds for the purpose of maintaining cemeteries. In this ruling, Justice Zamir asserted that the Ministry of Religious Affairs had failed to fulfill its obligation of equality in allocating funds for the maintenance of cemeteries of the Arab population and ordered that the funds designated in the budget for the maintenance of the cemeteries of the members of different religious groups be allocated equally. In his ruling, Justice Zamir emphasized the importance of the principle of equality, stating that:

The principle of equality binds every public entity in the State. First, it binds the State itself. The principle of equality applies to all the areas in which the State operates. It applies first and foremost to the allocation of State funds. The resources of the State, whether in land or money, as well as other resources, belong to all citizens, and all citizens are entitled to benefit from them in accordance with the principle of equality, without discrimination on the basis of religion, race, gender or any other illegitimate consideration . . . The primary threat to this principle stems from the implementation of the law. The threat is particularly severe in implementation of the Budget Law. From a practical standpoint, implementation of the Budget Law poses the relatively easy option, occasionally to the point of temptation, of discrimination in allocation of funds by state authorities, on the grounds, inter alia, of religion or nationality. Such discrimination, particularly if it is systematic, may cause severe damage, not only to a specific person or a specific entity, but also to the social fabric and the feeling of partnership, which is a precondition for proper living in a community. In any event, such discrimination is illegitimate at its core, from both a moral and legal perspective.<sup>60</sup>

Over the years, additional petitions have been submitted to the High Court regarding budgetary discrimination against the Arab population in various realms of public administration. One example is the field of education. The Higher Monitoring Committee for Arab Education in Israel submitted a petition advancing the claim that the Ministry of Education was not operating all the programs of its *Shachar* (Education and Welfare Services) Department in Arab educational institutions. In this ruling (HCJ 2814/97),<sup>61</sup> Justice Beinisch found that “indeed, the background to the petition’s submission, as reflected in the material before us, reveals a problematic picture of deprivation of the Arab sector in the realm of education,”<sup>62</sup> and that “in the context of the petition, there was no disagreement that education in the Arab sector had been deprived for many years, and that the situation needed to be rectified.”<sup>63</sup> Nonetheless, the petition was denied after the High Court was convinced by the state’s response that meaningful steps had been taken to allocate budgetary resources to the Arab sector for achieving the goal of equality of resources in the field of education, in accordance with the relative percentage of the Arab population in Israel. The court also noted that since the petition, among other things, the Shachar Department had initiated programs in the Arab sector at a rate approaching 20%, and, in addition, the Ministry of Education had decided on a policy of affirmative action for education in the Arab sector and had allocated resources to this purpose.

Another petition in the realm of education was submitted to the High Court against the Ministry of Education’s distribution of positions for truant officers (*ketzinei bikur sadir*) in educational institutions in Bedouin villages in southern Israel.<sup>64</sup> Justice Procaccia upheld the petitioners’ claim of discrimination in the allocation of these positions, in comparison to all settlements in the country and the Jewish settlements in southern Israel.<sup>65</sup> Addressing the principle of equality and the need for affirmative action in the Bedouin-Arab sector, Justice Procaccia wrote that “application, as noted, of the principle of equality may require differential allocation in order to provide more support for those in need and less support for those possessing greater ability, so that, at the end of the day, they will all have similar starting points and be provided with equal opportunity and an equal chance.”<sup>66</sup> The data presented before the High Court indicated that despite the marked need for a corrective arrangement for the Bedouin settlements, they had, in practice, been allocated a significantly smaller position than

the Jewish sector had, to the point that “the scope of the allocation to the Bedouin-Arab sector is inversely proportional to the relevant difference existing between the sectors, which justifies affirmative action in allocation to the Arab sector that has not yet been realized. As a result, the fundamental principle of equality between the different sectors in the allocation of standard positions is not being maintained.”<sup>67</sup> At the same time, the High Court denied the petition and refrained from intervening in the policy of the Ministry of Education, primarily due to the fact that the change in policy (including in the allocation of truant officer positions) had already begun; it was meant to be broad, complex, and gradual; and it required a reasonable amount of time to rectify the inequality. According to the High Court, this policy could not be achieved magically overnight and must be applied consistently and continuously to achieve the desired goal.<sup>68</sup>

The most significant petition upheld by the High Court in the field of education pertained to the declaration of “National Priority Areas” (HCJ 11163/03).<sup>69</sup> In 2006, at the conclusion of a legal proceeding that lasted approximately eight years, the High Court annulled a government resolution that had declared National Priority Areas and granted significant benefits to the residents of these regions in numerous spheres, including education. The High Court upheld the petitioners’ argument that the government lacked the authority to authorize such a broad arrangement, which, by nature, required Knesset legislation, and that the geographical consideration underlying the government’s resolution had resulted in discriminating against members of the Arab sector in realizing their rights to education (the 500 settlements that were classified as National Priority Areas included only four small Arab settlements). It was therefore decided that the government resolution was in violation of the principle of equality and did not meet the conditions of the limitation clause (of section 8 of Basic Law: Human Dignity and Liberty), and was therefore unconstitutional.<sup>70</sup> The ruling was also significant with regard to the test that was adopted to establish the claim of discrimination. In this ruling, the court employed the test of outcome, in which establishing a claim of discrimination only requires evidence that the administrative action resulted in a discriminatory outcome and does not require evidence of intention or motivation to discriminate. Thus, when a claim of discrimination is established based upon a discriminatory outcome, it becomes the burden

of the public authority to prove that the violation of the principle of equality meets the conditions of the limitation clause.

In its ruling, the High Court found that the government's resolution suffered from various deficiencies and ordered its annulment in the field of education within twelve months of the ruling. Even after this ruling, the government's discriminatory and illegal resolution remained in place for many years.<sup>71</sup> Over the years the High Court has sharply criticized the government's conduct in this context and has maintained that the government had not done everything in its power to implement the ruling in order to reduce the disparities in a reasonable amount of time.<sup>72</sup> According to the court, this was a reflection of both the undue freedom the respondents had allowed themselves in not implementing the court's ruling and their view of the ruling as a recommendation that could be applied in accordance with their priorities and at their own convenience.<sup>73</sup>

Another petition submitted to the High Court related to the budgeting of neighborhood restoration projects in the Arab sector (HCJ 727/00).<sup>74</sup> This petition revolved around claims of discrimination in determining equal socioeconomic criteria for implementing the project and for including Arab settlements. The High Court partly upheld the petition and found that state funds must be allocated on an egalitarian basis and according to clear criteria, especially in the case of the allocation of state funds for the purpose of realizing basic rights such as education, housing, and health. Despite the improvement in budget allocation to settlements in the Arab sector, which stemmed in part from their inclusion over the years in the neighborhood restoration project, Justice Beinisch's ruling found that

the proportion of the funds granted for the neighborhood rehabilitation project in the social field is still lower than the appropriate proportion according to the size of the population and its needs, which differs from the allocation of funds for the physical field included in the rehabilitation of neighborhoods. This is not an appropriate situation. The State has the duty to grant education to the overall population according to egalitarian criteria and the provision of equal opportunity. Once it chose, via the neighborhood rehabilitation project, to establish programs for the advancement of education among the disadvantaged, it must maintain these programs in an equal manner.<sup>75</sup>

The same was true of the government program “Ofek” (“horizon”), which was designed to deal specifically with localities facing ongoing economic and social hardship. The Ofek program included eleven localities, only one of which was Arab. A petition to the High Court (HCJ 6488/02)<sup>76</sup> advanced the claim that the decision to include the localities in question was flawed and was based on considerations that were non-egalitarian in nature. Justice Dorner’s ruling rejected the state’s claim that it had designed a separate multi-year program for the development of infrastructure and services in the Arab sector and found that “excluding Arab localities from specific socioeconomic plans, which have defined and different objectives from that of the plan, constitutes prohibited discrimination, which also precludes the achievement of the goal of affirmative action—reducing the disparities between Arab and Jewish localities.”<sup>77</sup> On this basis, Justice Dorner upheld the petition, “in the sense of proclaiming that Arab localities are entitled to be included in different kinds of socioeconomic programs based on egalitarian criteria.”<sup>78</sup>

Despite the High Court’s judicial criticism of the discriminatory conduct of state authorities and the upholding of some of the petitions against the unequal allocation of resources and funds, formidable criticism has also been voiced regarding the court’s narrow conception of the principle of equality, which is perceived as not providing the Arab minority in Israel with adequate protection proportional to the degree of deprivation they have experienced. In this way, for example, Yousef Jabareen has argued that the adoption of the narrow approach of formal individual equality will perpetuate the deprived status of the Arabs of Israel, making it necessary to adopt a new conception of the principle of equality—a transformative collective approach—that would fundamentally advance the status and rights of the Palestinian Arab minority and could potentially bring about genuine change in the living conditions of the Arab citizens of Israel. According to Jabareen, “in a society in which the political institution excludes the indigenous national minority group, the court has an obligation to play a creative and leading role in protecting the rights of that minority.”<sup>79</sup>

As reflected in the above judicial rulings and others, the High Court has served as an instrument for implementing the principle of equality vis-à-vis the Arab minority, particularly with regard to the equal allocation of funds and resources. Disagreement exists whether the right to equal allocation of state resources is an individual or collective right. On this question, Justice

Cheshin maintains that the principle of equal distribution of funds to the Arab citizens of Israel derives from the basic principle prohibiting discrimination among citizens and does not constitute recognition of a collective right, which is the concern of the legislative branch.<sup>80</sup> According to Justice Zamir, the right to equal allocation of state resources is not limited to individual rights alone but is also a collective right.<sup>81</sup> Justice Zamir also notes that “in principle, the court is authorized to determine and develop collective rights, including the collective rights of the Arab population, and is worthy of doing so.”<sup>82</sup> On this basis, he also proposes making greater use of the High Court to realize the Arab population’s right to the equal allocation of state resources in other areas:

The Arab population’s right to fundamental equality with the Jewish population in the allocation of state resources, financial or otherwise, is a distinct collective right with immense practical importance, as the existing gap between the level and infrastructure of Arab localities and Jewish localities stems in part from the Arab localities’ deprivation in the allocation of state resources. The court ruling that established the right of Arab localities to receive financial allocations from the Ministry of Religious Affairs for the purpose of maintaining their cemeteries on the basis of equality with the Jewish localities is indicative of a path that can be taken by the Arab population (by means of social organizations) to realize their right to equality in the allocation of state resources in other contexts as well.<sup>83</sup>

### **The Definition and Jewish Character of the State**

The sense of deprivation and discrimination that prevails among the Arab minority in Israel due to the fundamental lack of recognition of its collective rights, as discussed above, is exacerbated by the significant and dominant collective rights of the Jewish majority. These rights are expressed in the constitutional definition of the State of Israel as a Jewish state and in the anchoring of the values derived from this definition in legislation in all spheres, including civic issues, education, political participation, and the shaping of the public sphere through symbols, language, and culture. All these serve to perpetuate the State of Israel’s status as the nation-state of the Jewish people.

In the Declaration of the Establishment of the State of Israel, the members of the Jewish People's Council declared "the establishment of a Jewish state in Eretz Israel [Land of Israel]," which would be "open for Jewish immigration and the ingathering of the exiles" and would be based on freedom, justice and peace as envisaged by the prophets of Israel." Jewish heritage also provides inspiration for filling lacunae in legal analysis, as established in the Foundations of Law Act, 1980, which stipulates that when "the court, faced with a legal question requiring decision, finds no answer to it in statute law or case law or by analogy, it shall decide it in the light of the principles of freedom, justice, equity, and peace of Israel's heritage."

The two Basic Laws enacted in 1992 established that "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," and that "these rights shall be upheld in the spirit of the principles set forth in the Declaration of the Establishment of the State of Israel." The Basic Laws also define their aim as protecting human dignity and liberty and the freedom of occupation "in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state."

Section 2 of the State Education Law, 1953 defines the goals of state education, which include, among others, "imparting the principles in the Declaration of the Establishment of Israel and the values of the State of Israel as a Jewish and democratic state . . ." Section 7(a) of Basic Law: The Knesset restricts the political participation of persons and parties, in the event that their party goals or individual actions directly or indirectly negate "the existence of the State of Israel as a Jewish and democratic state." The same is true of Section 5 of the Political Parties Law, which restricts the registration of a party for the same reason.

The symbols of the state and the public sphere were also shaped from a national, cultural, and legal perspective that exclusively benefits the Jewish majority. This preference finds expression in, among other things, the Flag, Emblem, and Anthem Law, 1949, as well as the State Stamp Law, 1949. Days of rest and national holidays in Israel are also associated with the culture and heritage of the Jewish people. In this context, section 18A(a) of the Law and Administration Ordinance, 1948 stipulates that "the Sabbath and the Festivals of Israel—the two days of Rosh Hashanah, Yom Kippur, the first and seventh days of both Passover and Shavuot—are the official

days of rest in the State of Israel.” The dominance of the Hebrew language in the public sphere and its development by state institutions are expressed in the definition of the Hebrew language as the official language of the state under Article 82 of the Palestine Order in Council, 1922 and the provisions of the Citizenship Law, 1952; the Law of the Supreme Institution for the Hebrew Language, 1953; the Yad Izhak Ben-Zvi Law, 1969; and the Hebrew Date Law, 1998.

The dominant Jewish character of the public sphere in Israel also reflects on other practical spheres, in which important benefits are extended only to members of the Jewish majority, and which are therefore perceived by the Arab minority as discriminatory and racist. This is true of citizenship and immigration, including the provisions of the Law of Return, 1950; the Citizenship Law, 1952; and the Entry into Israel Law, 1952. These laws automatically grant Israeli citizenship to almost all Jews and their families based on the principle of return and, at the same, time prevent the entry of Palestinians into Israel, for example, under the provisions of the Infiltration Prevention (Violations and Judgment) Law, 1954, and the Citizenship and Entry into Israel (Temporary Order) Law, 2003 (see details below in this chapter). The Jewish majority’s exclusive control over the processes of naturalization and immigration is evident, which aims to preserve a Jewish majority in the State of Israel as well as by the granting of rights that are not enjoyed by the Arab minority.

Another field is that of land and housing, which the Arab minority believes is not applied equally to the Arab population to the extent that it is applied to the Jewish population, such as in the allocation of land for the establishment of new localities. The Arab minority perceives many laws in this sphere as state instruments designed to dispossess them of their land and to seize the property of refugees and displaced persons. One such law is the Absentee Property Law, 1950, which established a mechanism for vesting in the state’s Custodian for Absentee Property all property of those who left the state for the territory of an enemy country during Israel’s War of Independence. The statutory establishment of special national institutions—such as the World Zionist Organization-Jewish Agency Status Law, 1952, and the Israel Lands Administration Law, 1960—are also regarded as discriminatory against the Arab population, in the absence of national institutions that provide a comparable service to the Arab minority. This legislation can be considered in

conjunction with instances of exclusion on nationalist and religious grounds (as in the Ka‘adan case discussed above) and the public atmosphere that accompanied the “Acceptance Committee Law.”<sup>84</sup>

Israel’s definition as a Jewish state and the dominant nature of its “Jewishness” in the public sphere have also been subject to litigation before the High Court. For example, as part of the discussion in petitions against the Central Elections Committee’s decision to ban participation of Knesset member Azmi Bishara, the Balad party, and Knesset member Ahmad Tibi in the Knesset elections, and to permit the participation of Baruch Marzel (11280/02), Chief Justice Aharon Barak explained that the “core” characteristics of the State of Israel as a Jewish state have

a Zionist aspect and an aspect of heritage . . . at their heart lies the right of every Jew to immigrate to the State of Israel, where they will constitute a majority; Hebrew is the main official language of the State; and its main religious holidays and symbols reflect the national revival of the Jewish people. Jewish tradition is a central element in its religious and cultural heritage. A list of candidates or a candidate shall not participate in elections if the negation or termination of these characteristics is central and dominant to their goals and activities and they work energetically to achieve these goals.<sup>85</sup>

However, Chief Justice Barak rejected the argument that a list of candidates whose dominant goals include regarding the State of Israel as a “state of all its citizens” negates the existence of the State of Israel as a Jewish and democratic state and thus should be prohibited from taking part in the Knesset elections. In this context, Chief Justice Barak maintained that it is necessary to understand the phrase “state of all its citizens.” According to Chief Justice Barak:

If all this goal requires is equality between all citizens of the State of Israel, it does not constitute any injury to the State of Israel as a Jewish state . . . Therefore, if the goal of Israel as being “a state of all its citizens” is aimed only at ensuring the equality of citizens within the home, and at the same time recognition of the rights of the minority living in our midst, this does not negate the existence of the State of Israel as a Jewish state. If, on the other hand, the goal of Israel being “a state of all its citizens” aims at

more than this, and seeks to do injury to the rationale that lies at the foundation of the state's establishment and in doing so to negate Israel's character as the state of the Jewish people, this harms the core, minimal attributes that characterize the State of Israel as a Jewish state.<sup>86</sup>

The Or Commission also related to the Jewish character of the State of Israel, stating that “Arab citizens must bear in mind that Israel represents the realization of the yearnings of the Jewish people for a state of its own, the only state in which Jews are the majority, a state for which the ingathering of the [Jewish] exiles is a fundamental principle—and that this is the essence of the existence of the state for its Jewish citizens. The Jewishness of the state is a constitutional given, which is partly reflected in the centrality of the heritage of Israel and the Hebrew language in its public life.”<sup>87</sup>

The state's dominant Jewish character has a direct impact on the sentiments of its Arab citizens.<sup>88</sup> The advantages with which the Jewish state provides the Jewish majority is, to a certain extent, the mirror image of the lack experienced by the Arab minority group. In this way, the state's definition as a Jewish state means that it is not possible for the Arabs to control the public cultural sphere; that the state's language, national anthem, and symbols will remain foreign to them and imposed upon them; and that they do not have any authority over the mechanisms of naturalization and immigration, resulting in little control over their size within the population. These feelings are intensified among the Arab minority especially when, at the same time, there is a complete lack of constitutional recognition of their status as a national minority with equal rights.<sup>89</sup>

In this context, some have made arguments undermining the legitimacy of realizing the political self-determination of the Jews in Israel. According to these contentions, there is a fundamental and structural contradiction between the definition of the state and its Jewish character on the one hand, and the state's obligation to the values of democracy and human rights on the other hand, and these two principles—Jewish and democratic—are inconsistent with one another. Based on this argument, a state that defines itself as Jewish necessarily excludes its Arab citizens and can neither be democratic nor extend equal human rights to all its citizens. A different argument advanced by Prof. Ruth Gavison maintains that safeguarding the principles of democracy, human rights, and non-discrimination does not

require the negation of Israel as a particularistic Jewish state, and that the legitimacy and character of the Jewish state can be justified by the Jews' right to self-determination. Gavison holds that the state cannot discriminate among its citizens based on national origin. However, she also maintains that the state's Jewish character may justify adopting preferential policies toward the majority, which are necessary for protecting the vital interests of the national group—the same interests that justified the recognition of the majority's right to self-determination in the first place.<sup>90</sup>

In the context of the constitutional grounding of the definition and character of the state, Gavison proposes leaving the state's "identity" vague and limited in order to avoid increasing the potential for division regarding the interpretation and meaning of vague terms such as "Judaism," "democracy," and "human rights." For this reason, in order to generate broad civil cohesion and facilitate a meaningful partnership among all citizens of the state, regardless of religion, race, or nationality—and in order to avoid hindering the possibility of reaching agreement on practical arrangements—it is best to leave the issue of identity open to political and public discussion, rather than deciding it based on legal criteria.<sup>91</sup>

The legal status of the Arab minority in Israel—from the government's treatment of the Arab minority as a collection of ethnic groups or religious minorities (also including Druze, Christians, Circassians, and Bedouin) as opposed to an indigenous national minority, to the absence of fundamentally recognizing its entitlement to collective rights, to Israel's definition as a "Jewish" state and the shaping of the public sphere in dominant Jewish hues—arouses feelings of frustration and disappointment among the Arab population. These feelings led academics and representatives of Arab civil society to formulate their own vision for the future relationship between the Arab sector and the state and their demand that they be recognized as a national minority and awarded full collective rights (throughout this book, these texts will be referred to collectively as the "Vision Documents").<sup>92</sup> The common thread running through all the Vision Documents is the desire to do away with the Jewish character of the state and to transform it into a state of two national groups with equal status and equal rights. In this spirit, for example, Adalah formulated its "Democratic Constitution" as a proposed constitution for the State of Israel based on a democratic, bilingual and multicultural state.<sup>93</sup> "The Haifa Declaration" also promotes the establishment

of a new democratic state based on equality between the state's two national groups.<sup>94</sup> According to the authors of the latter document:

This would require a change in the constitutional structure and a change in the definition of the State of Israel from a Jewish state to a democratic state established on national and civil equality between the two national groups, and enshrining the principles of justice and equality between all of its citizens and residents. In practice, this means annulling all laws that discriminate directly or indirectly on the basis of nationality, ethnicity, or religion—first and foremost the laws of immigration and citizenship—and enacting laws rooted in the principles of justice and equality. It also means the application of equality between the Arabic and Hebrew languages as two official languages of equal status in the country; ensuring the principle of multiculturalism for all groups; securing the effective participation of the Palestinian minority in government and in decision making; guaranteeing the Palestinian citizens of Israel the right of veto in all matters that concern their status and rights; guaranteeing their right to cultural autonomy, including the rights to develop policies for and to administer their own cultural and educational affairs; and distributing resources in accordance with the principles of distributive and corrective justice.<sup>95</sup>

The “Future Vision of the Palestinian Arabs in Israel” document addresses the legal status of the Arabs in Israel and advances the collective-transformative approach to the principle of equality.<sup>96</sup> The fundamental principle articulated by this document, as the basis for collective national equality of the Palestinian Arabs, is full, true, and equal partnership, as individuals and as a group, in all the state's public resources (political, material, and symbolic). This document presents its demands in the realm of collective national rights as follows:

1. Official recognition of the collective existence of the Palestinian Arabs in the State and their national, religious, cultural, and linguistic character, and recognition of their status as the indigenous people of the homeland
2. Recognition of the Palestinian Arabs' right to full equality in the country on a collective national basis, in addition to civil equality
3. Ensuring a fundamental dual language system in Israel based on the equality of Arabic and Hebrew

4. Ensuring effective representation and participation of the Palestinian Arabs in decision-making procedures within official state institutions in a manner that ensures them the right of veto in matters pertaining to their own interests
5. Guaranteeing Palestinian Arab self-government in the fields of education, religion, culture, and media and recognition of the Arab right to self-determination with respect to their collective life, in a manner that complements their partnership within the state
6. Special allocation, on a collective basis, in the division of material public resources of the state—including budgets, land, and housing—based on the principles of distributive justice and corrective justice
7. Due representation on a collective basis in the symbolic system of the state
8. Guaranteeing the right of the Palestinian Arabs to freely maintain and intensify their special relationship with the rest of the Palestinian people and the Arab nation
9. Guaranteeing the rights of the Palestinian Arabs regarding specific issues in which historical injustices have occurred, such as the issue of refugees in their own land (“present absentees”) and the right to return to their original towns and villages; the issue of Islamic waqf (endowment) properties and the transfer to Muslims of administrative powers over these assets; recognition of the Arab villages whose existence the state authorities do not recognize; and the Arab lands that were unjustly confiscated from their owners
10. And finally, official acknowledgment of the historical injustice done to the Palestinian Arabs in Israel and to the Palestinian people in general, ensuring an end to this injustice, and correcting its consequences, which continue up to the present day.

In this way, the Vision Documents reflect the tension that exists between attempts to establish full collective rights for the Arab minority as a national minority, on the one hand, and the Jewish majority’s collective right to self-determination and to shape the state’s character as a Jewish nation-state, on the other. An attempt to resolve this tension can be found in the Or Commission’s assertion that “perhaps the time has come to also give expression in public life to the common denominator of the entire population by adding state events and symbols with which all citizens can identify.”<sup>797</sup> But the commission also reached the conclusion that resolving this tension is no simple matter, and

the discussions regarding these issues are distinctly political in character and should be integrated into the dialogue of the appropriate forums.<sup>98</sup> Justice Zamir also addressed the delicate balance required by dealing with this issue, stating that “it may be possible to distinguish between rights that enable the minority to maintain its identity and promote its social interests, especially cultural and religious ones, without fundamentally harming the legitimate interests of the majority and rights (which can perhaps be referred to as national rights) that pose a threat to the national identity or the legitimate interests of the majority.”<sup>99</sup>

### **The Legal Realm as a Sphere of Action**

As the analysis of the reality of the Arab minority in Israel from a legal perspective reveals, the primary problem lies in the failure to realize rights that are anchored in law. The problems of discrimination and inequality that still exist in Israel can be resolved primarily on the level of personal rights by means of law. Both legislation and case law contain provisions that anchor the principle of individual equality and prohibit discrimination among citizens of the state based on group affiliation such as religion, sex, and nationality. They also contain provisions that stipulate corrective preferential treatment for the Arab minority, including legislative amendments regarding due representation and their expansion by rulings of the High Court. To give expression to the formal civil equality of the Arab citizens of Israel, the institutions of the state must carry out these provisions, which are currently not being implemented. Action based on vigorous civic activity is also required.

Still, the collective status of the Arabs in Israel, which defines itself as a “Jewish and democratic state,” is sensitive and highly charged. Some maintain that the issue should be decided within the authorized political framework due to its distinctly political nature. Others call for the High Court to more actively develop and recognize collective rights for the Arab minority. It may also be the case that, in Israel’s current political and legal reality, a practical solution will require some kind of integration between the two approaches.



## Chapter 2: **The Economic Reality**

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This chapter does not address all aspects of the economic conditions of the Arabs in Israel but rather focuses on three major issues: the Arab labor market in Israel, industrial development in the Arab sector, and the work of the Authority for the Economic Development of the Arab, Druze, and Circassian Sectors, which operates out of the Prime Minister's Office. The discussion surveys the primary aspects of these issues, considers the major problems they present, and relates them to issues discussed in other chapters of this book, particularly to the issues of education and law.<sup>1</sup>

Arabs, Druze, and Circassians<sup>2</sup> together account for 21% of the overall Israeli population.<sup>3</sup> Despite possessing equal rights before state institutions, disparities exist between this group and the majority Jewish population in almost all realms of life. Ayman Saif, director-general of the Authority for the Economic Development of the Arab, Druze, and Circassian Sectors, explains that Israel has two separate economies that are only superficially related to one another. According to Saif, the disparities stem from a large number of factors, including the absence of equal opportunities, lack of suitable infrastructure, obstacles to the entry of capital, and impediments related to Arab society itself, such as the small number of women employed outside their residential areas and the work force's low level of education.<sup>4</sup>

These and other obstacles continue to hinder state attempts to advance development projects with the aim of changing the economic reality of the Arab population. This reality is characterized by the following five elements:

1. A low percentage of participation in the work force—The employment rate among Arab men is low in comparison to the Jewish population, but especially among Arab women (27% of Arab women in comparison to 76% of Jewish women, and 73% of Arab men in comparison to 80% of Jewish men in 2010). Disparities also exist between the Arab population participating in the work force and the rest of the Israeli population, as a result of differences in the primary areas of employment between the

two populations. Arab society is characterized largely by traditional, mainly physical occupations at the bottom of the pay scale. This results in a significant disparity in the average hourly wage (approximately 43% among men and 21% among women) and contributes to the Arab sector's relatively low earning capacity. Advanced occupations, such as in the hi-tech industry and those requiring a relatively high level of education, are less common in Arab society due to both the low level of education among Arabs in Israel relative to the country's Jewish population and difficulties in entering the job market. In addition, minorities face difficulties in finding their way into the civil service, as reflected in their low representation among employees of the state relative to their percentage of the population (in 2013, Arabs accounted for only 8.8% of all civil servants in Israel).

2. An undeveloped business sector—The Arab business sector consists of small businesses and companies that are engaged primarily in trade and construction and has a small number of areas of commerce and employment, in comparison to the Jewish population. In 2012, the Arab sector had approximately 800 medium and large businesses (employing at least twenty people), approximately 3,700 small businesses (6–19 employees), and approximately 15,500 micro businesses (1–5 employees). More than three-quarters of the Arab businesses in the country are located in the northern region, and most are concentrated in the sectors of construction and trade. According to the data of the Israeli Institute for International Export and Cooperation, only approximately twenty-five Arab companies were operating in the export arena as of the end of 2009. It also indicated that in 2010–2011, less than 0.3% of all goods exported from Israel were produced by companies from the Arab sector.
3. A low level of education—The level of education throughout Arab society in Israel is lower compared to that of the Jewish population both in terms of years of education (an average of eleven years of education in the Arab sector in 2010, in comparison to fourteen years in the Jewish sector) as well as the number of those with an academic degree in relation to the overall population of each sector (in 2011, 33% of all Jewish women and 30% of all Jewish men age twenty-five and older had an academic education, in comparison to 12% of all Arab women and 15% of Arab

men). In addition, Arabs in Israel tend to study a limited number of academic subjects, such as pharmacy and education.

4. Undeveloped infrastructure and mounting unemployment—The majority of the Arab population (94%) lives primarily in urban localities with undeveloped economic and physical infrastructure, poor socioeconomic conditions, and a sense of mounting poverty. The number of Arab families out of the total number of poverty-stricken families in Israel is more than 2.5 times its relative proportion of the population. According to the data of the Central Bureau of Statistics and the National Insurance Institute, the poverty rate among Arab families stood at 54% in 2006<sup>5</sup> and 51.4% in 2007.<sup>6</sup> According to the official data for 2013, 29% of all Arabs in the country perceived themselves as poor (as opposed to 12% of the Jews). In addition, 42% of all Arabs aged twenty and older felt that their economic condition had worsened during the five years that preceded 2013, as opposed to 24% of the country's Jews.<sup>7</sup>
5. Weak local municipal governments that are reliant on central government funding—According to data from the Ministry of Interior for 2009,<sup>8</sup> approximately fifteen local authorities (thirteen Arab, one Druze, and one Bedouin) were being run by appointed committees (committees appointed by the interior minister to fulfill the responsibilities of the mayor and the city council, or the role of the council alone, under certain circumstances, indicating flawed administration), and fifty-eight local authorities (forty-two Arab, twelve Druze, and four Bedouin) received the services of a designated accountant (the Municipalities Ordinance empowers the interior minister to appoint a designated accountant to a local municipality to monitor and control its economic conduct, if it had been administered in a flawed manner). In addition, the socioeconomic index indicates that out of the eighty-three local authorities in the minority sector ranked 6 or below, sixty-six are ranked 3 or lower.

In this way, the Arab population's economic integration into the Israeli economy suffers from striking long-term problems. In many indexes, the economic indicators for the Arab sector are significantly lower than those for the Jewish sector. For example, members of the Arab population work less, earn less, are poorer, and face lower demand and fewer employment options. These economic issues are related to many other issues, such as education, social relations, cultural patterns, demography, geography, and more.

One complex issue in this context is the role of discrimination as an explanatory factor for a significant portion of the problems faced by the Arabs in Israel in general and in the economic sphere in particular. It is a politically charged issue that is difficult to prove and hard to address. Still, the reality of the small space in which Arabs in Israel live—from geographic, social, employment, and other perspectives—renders it a central and important issue. When addressing this issue, it is clear that the problems are not only economic in nature and their possible solutions also are not solely or even primarily located in the economic sphere; indeed, solutions in the political, educational, social, and legal arenas appear just as relevant.

The same issues can also be considered from a different perspective, from that of government policy regarding disadvantaged populations in Israel in general and the Arab population in particular. From this perspective, it appears that there has not been any clear-cut, consistent, guiding policy over time. For example, the year 2000 witnessed the formulation of a NIS 4 billion project for the Arab sector led by Yossi Kucik, former director-general of the Prime Minister's Office (under Prime Minister Barak), which was never implemented. Between 2003 and 2004, Benjamin Netanyahu, then the finance minister, significantly cut back the support extended to weak populations. In 2007, the Prime Minister's Office established the Authority for the Economic Development of the Arab, Druze, and Circassian Sector, which since then has resulted in the allocation of substantial resources to the Arab sector. In 2008, the state began paying negative income tax (subsequently evolving into an "income grant") to low-income individuals. In 2008–2010, the Finance Ministry and the National Economic Council planned a socioeconomic agenda for dealing with weak populations. In a related context, the Committee to Examine Employment Policy submitted a report to the minister of industry, trade, and labor, and some of the recommendations were subsequently implemented. This outline indicates awareness of the problems but also a lack of perseverance and consistency in implementation. From this perspective, the question of the integration of Israel's Arabs into the country's economy also appears to be related to the impact of the foreign workers on the economy, the enforcement of labor laws, analysis of production methods, and other such issues.

## The Arabs and the Israeli Labor Market<sup>9</sup>

### *The Or Commission*

“The state must initiate, develop, and operate programs, with an emphasis on budgets, that will close gaps in . . . employment.”<sup>10</sup>

### *The Lapid Committee*

The following resolution can be viewed as containing a remedy that addresses the conclusions of the Or Commission. Section 1 of Government Resolution 740 of August 19, 2003 called for ‘charging the following parties with the task of submitting to the Ministerial Committee on the Non-Jewish Sector, within six months and by means of the Council for National Security, plans to address the main problems of the Arab sector in Israel, including specification of the bodies responsible for implementation, an executive mechanism, a budget, and a timeframe.’ Section 1(c) stated that the efforts would involve, ‘among other things, examining the causes of the special difficulties in the realm of employment in the Arab sector and in the integration of members of this sector in advanced employment sectors . . . examining the obstacles preventing full implementation of the existing plans and solutions for advancing the employment of members of this sector, and submission of recommendations of ways to resolve the difficulties and remove the obstacles.’ The resolution also charged the minister of industry, trade, and labor with ‘submitting his recommendations for overcoming the unique employment difficulties of the Arab sector, including obstacles that have cast a shadow over the advancement of existing plans and programs on the issue and means of a solution.’

As we have already noted, the Arabs in Israel constitute 21% of the country’s overall population. Their patterns of employment in the labor market differ from those of the population as a whole, and many problems can be identified in this context. We now turn to an examination of these problems, followed by a presentation of possible government policy measures in this area.

***Basic Information on the Arabs of Israel in the Israeli Labor Market*****Table 1: Basic Attributes of the Labor Market—Jews and Arabs**

	Total	Jews	Arabs	% of Arabs (of Total)
Population (in thousands)	8,135	6,105	1,683	20.7%
Population Aged 15 and Over (in thousands)	5,775	4,550	1,057	18.3%
Number of Participants in the Workforce (in thousands)	3,678	3,062	483	13.1%
Rate of Participation	63.7%	67.3%	45.7%	
Number of Employed (in thousands)	3,450	2,884	438	12.7%
Number of Unemployed (in thousands)	228	177	45	19.8%
Unemployment Rate	6.2%	5.8%	9.4%	
Percentage of Women Employed in Education and Health Care	36.8%	36.2%	54.6%	
Percentage of Men Employed in Construction, Agriculture, and Industry	26.6%	23.3%	41.2%	
Average Hourly Wage for a Salaried Employee – Men (in NIS)	53.0	58.2	31.6	
Average No. of Weekly Work Hours for a Salaried Employee – Men	44.5	44.5	44.1	
Average Hourly Wage for a Salaried Employee – Women (in NIS)	44.0	45.3	33.5	
Average No. of Weekly Work Hours for a Salaried Employee – Women	35.9	36.1	32.9	

*Source:* Central Bureau of Statistics. The information in purple is for 2013; the information in green is for 2011.

Table 1 indicates three prominent attribute aspects of the Arab workforce:

1. Despite a rate of more than 18% among the relevant population (aged fifteen and older), the number of Arab participants in the workforce and of employed Arabs is approximately 13% of the total number of participants and the total number of employed. This rate is lower than the Arab population's relative percentage in the general population

and stems from the Arab population's lower rate of participation in comparison to the Jewish population (46% as opposed to 67%), and its higher unemployment rate (9.5% as opposed to 5.84%).

2. Working Arab men and women are characterized by a high level of sectoral concentration, with 61% of all Arab men working in construction, agriculture, and industry and almost 55% of all Arab women working in education and health care.
3. Arab wages are significantly lower than Jewish wages. In terms of hourly wages, the average hourly wage earned by Arab men is approximately 54% of that earned by Jewish men, and the average hourly wage earned by Arab women is approximately 74% of that earned by Jewish women.

These statistics are indicative of the following problems: relatively low levels of participation in the workforce and employment, relatively low wages, and irregular concentrations of employment, which, in the case of Arab men, are in sectors with low wages and high levels of commuting. With regard to these statistics, it should be noted that in 2012, the Central Bureau of Statistics began conducting its workforce survey using a new format that included changes in the sampling framework and a transition from a quarterly survey to a monthly survey, resulting in several significant changes in the data. In the Jewish sector, there was no significant change in the unemployment rate among men or women due to the transition from the former survey to the new survey. For the Arab population, on the other hand, the change resulted in a dramatic jump in the rate of unemployment, which doubled for men and tripled for women. This resulted in an increase in the general unemployment rate of the economy as a whole, based on the combined data of both populations. The workforce participation rate of all populations examined—Jewish and Arab men and women—was higher than had been reported by the previous survey. During the first half of 2011, the participation rate among Jewish males stood at 63–65%, and in 2012, at 59–65%. Among Jewish women, the former survey reflected a workforce participation rate of 59–60%, whereas the new survey reflected a higher rate of 63–64%. For Arab women, the rate increased from 21–23% to 28–29%. It is therefore necessary to exercise caution when comparing the pre-2011 statistics with the statistics from 2012 and onward.

### ***Findings of the Research Literature***

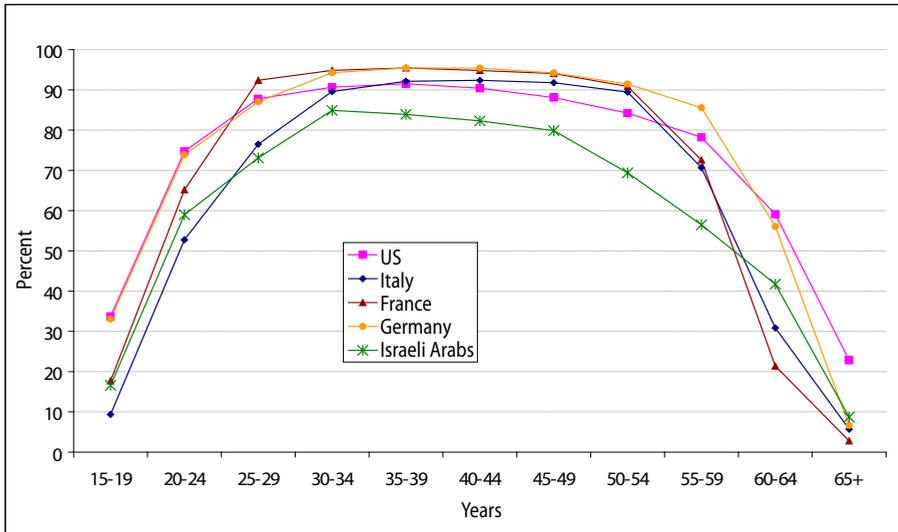
To gain a more in-depth understanding of this information, we now turn to a review of the statistics and their analysis by a number of articles published in recent years. The articles by Yashiv and Kasir reveal a number of facets of the Arab workforce.<sup>11</sup> The rate of participation of Arab men in the Israeli workforce has declined over time, as has the rate of participation of Jewish men; however, the decline among Arab men has been much sharper. In 1990, the participation rate among Arab men was approximately 5% higher than among Jewish men. In recent years, the picture has reversed itself, revealing a lower participation rate among Arab men. One possible explanation of this sharp decline in the workforce participation rate among Arab men is the decrease in the relative demand for uneducated workers due to technological changes, exposure of the market to competing imports, and the process of globalization. An especially sharp decline occurred in the 1970s, possibly due to the introduction of Palestinian workers, while the decline in the participation rate of Arab men since the 1990s has also been influenced by the influx of foreign workers to Israel.

**Figure 1: Male Participation in Workforce Rate over Time, 1970–2011**



*Source:* Central Bureau of Statistics, Workforce Surveys, based on author's assessment.

**Figure 2a: Rate of Male Participation in Work Force among Arab Israelis and in Western Countries, 2010**



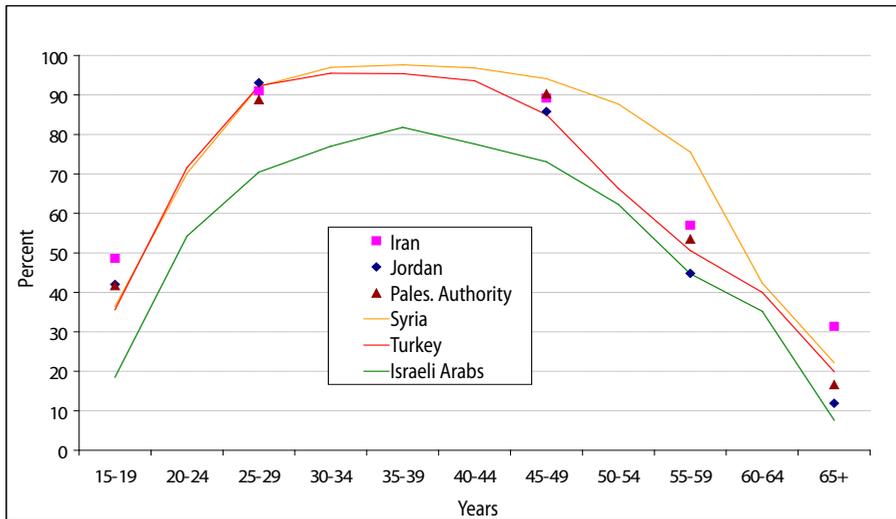
Source: OECD, Workforce Surveys of the Central Bureau of Statistics, based on author's assessment.

The workforce participation rate among Arab-Israeli men is lower than the rate of participation among Jewish men in Israel, men in Western countries, and men in other Arab and Muslim countries. Among Arab-Israeli men, the highest participation rate is only approximately 80%, in contrast to 90% and above in the other countries. In addition to the horizontal difference between the participation profile of Jews and Arabs throughout life, there are differences in the profile slopes between each age group, which decline more steeply among Arab men beginning with the 40–44 year old age group.

In all the other economies, we observe a classic hump-shaped profile of increase, stabilization, and decline over the course of a lifetime. In Europe, the decline begins after the ages of 50–54, and in the United States a gradual decline begins slightly later, after the ages of 55–59. In the case of the Arabs of Israel, the hump is shorter and sharper, also in relation to Palestinian men in the territories and men in other Arab and Muslim countries. An examination of the participation profile by age according to different levels of education reveals that the phenomenon of early retirement is characteristic of all education levels. Nonetheless, as expected, the age reflected in the

decline in the workforce participation rate among males—Jews and Arabs alike—increases with the level of education.

**Figure 2b: Participation Rate of Arab-Israeli Men and Men in Arab and Muslim Countries, 2010**



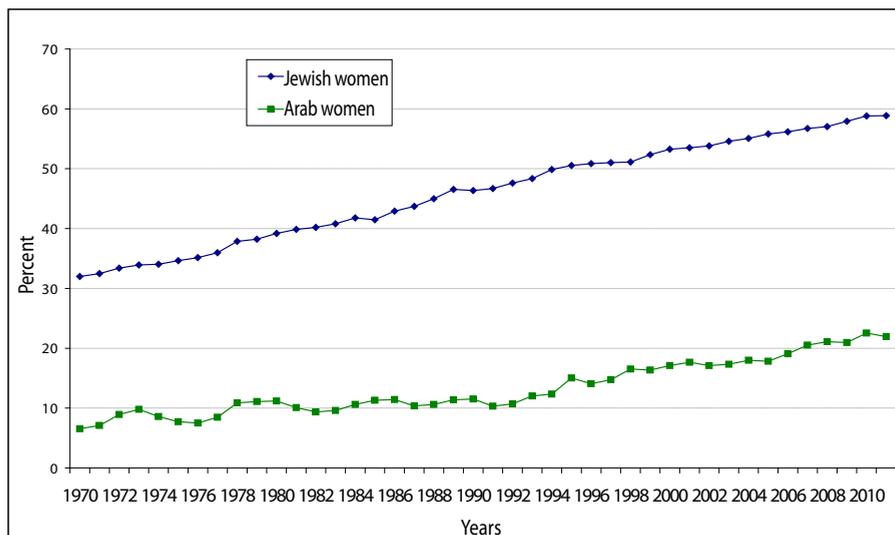
Note: Non-continuous curves represent data from wider age groups.

Source: ILO, OECD, Workforce Surveys of the Palestinian Central Bureau of Statistics, Syrian Central Bureau of Statistics (<http://www.cbssyr.sy/index-EN.htm>), Workforce Surveys of the Israeli Central Bureau of Statistics, based on author's assessment.

The authors explain these findings by pointing out that Arab men are employed in a wide range of occupations and sectors that require physical fitness, such as construction and agriculture. It is therefore reasonable to expect that as their physical capacity begins to decline in their forties, we will observe a decline in participation in this type of employment. The high percentage of foreign workers in Israel enables employers to find replacements for employees with declining physical capacity. The 2005 Social Survey of the Central Bureau of Statistics revealed that 54% of the Arabs who had ceased working during the ten years leading up to the survey indicated physical limitations, disability, or illness as the reason they left their last place of employment, in comparison to approximately 21% of the Jews surveyed. Similarly, 21% of all Arabs seeking employment indicated physical limitation, disability, or illness as their main reason for

being unable to find a job, in comparison to only 6% of the Jews surveyed. In addition, among men who indicated that they suffered from poor health or some other physical problem, approximately 88% of the Arabs reported that the problem was disruptive or extremely disruptive to their everyday life, in comparison to only 66% of the Jews surveyed. The physical/health-related explanation, then, appears to be a main reason for the early retirement age of Arab men. Another reason is their ability to receive income from various sources of government support, which enables men to retire when their physical capacities begin to decline. In addition, the prevailing family structure and surrounding cultural environment in the Arab sector may facilitate intergenerational support (children supporting their parents). The survey in question indicates that the percentage of young Arabs who support their parents is much higher than in the Jewish population.

**Figure 3a: Female Participation Rate over Time, 1970–2011**

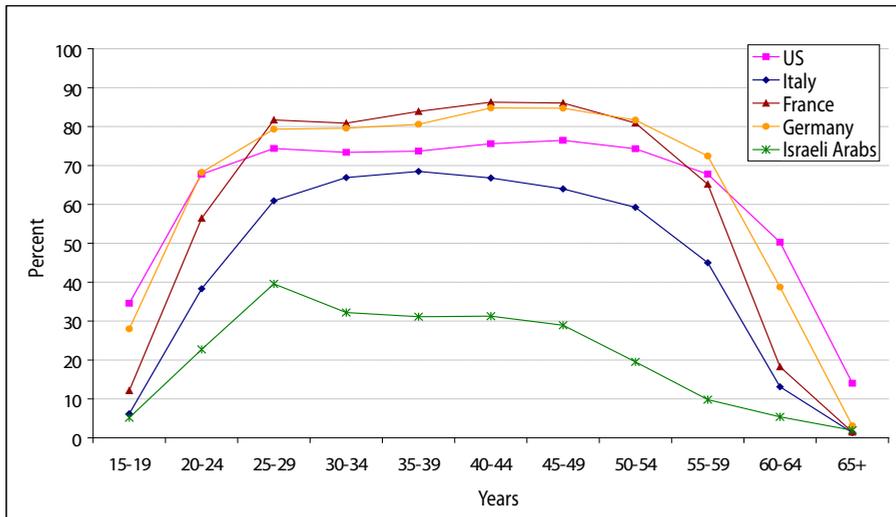


*Source:* Workforce Surveys of the Central Bureau of Statistics, based on author's assessment.

Arab women's rate of participation in the workforce in Israel has increased over time, which is consistent with changes that have occurred in other Western countries. Between 1970 and 2011, the participation rate among Arab women doubled, from 10% to more than 20%, although it continued to be particularly low. The rate of increase in workforce participation rate

among Arab women has been lower than among Jewish women, causing the gap to widen.

**Figure 3b: Participation Rate of Arab-Israeli Women and Women in Western Countries, 2010**



Source: OECD, Workforce Surveys of the Central Bureau of Statistics, based on author's assessment.

The participation profile by age group among Arab women is much lower than among Jewish women. The participation rate among Arab women in Israel is also lower than the prevailing levels in Western countries. Nonetheless, the participation pattern among Arab women in Israel is not fundamentally different from the prevailing pattern in Arab and Muslim countries. Over the years, the participation among women has been characterized by an increasing trend, particularly between the ages of twenty and sixty.

The data by sector and occupation reveals a high concentration of Arab women working in the education and healthcare sectors. The prevalent opinion is that social obstacles prevent the participation of Arab women in the workforce, although others argue that the key to understanding their low participation is the limited supply of places of employment for Arab women and the low wages offered. The data indicates a significant increase in education among certain groups of women, which allows us to consider the following hypothesis that can be checked using econometric tools: Arab women are likely to be either “modern” or “traditional,” with the former

possessing the attributes of contemporary Western women, including higher education and high participation in the workforce. Both attributes are aspects of “modernity”: one relates to culture and mentality, and the other relates to the use of advanced technology (“modern knowledge”). It is clear that the two are related, and we can examine the extent to which variables of “modernity” impact participation, as distinct from other variables such as salary. The authors found confirmation of this assertion in participation regressions based on data from the Social Survey of 2005.

Muhammad Asali examined wage discrimination in the Arab sector vis-à-vis the Jewish sector. His study documents the disparities that existed between the wages of Jewish and Arab men between the years 1990 and 2003, and estimates a wage regression in order to explore the causes of gaps. The wage disparities observed were divided into three components: disparities stemming from differences in human capital; disparities deriving from occupational discrimination; and disparities from wage discrimination. The study’s findings confirm the existence of wage discrimination and its intensification during the period of the survey: if in 1991–1992 only 5–10% of the wage gap was attributed to wage discrimination, this figure stood at 20–30% between 1999 and 2003.<sup>12</sup> Cohen and Haberfeld, who examined the impact of growing inequality in the Israeli labor market on income gaps between 1975 and 2001, also found that from 1992 onward, discrimination against workers from the Arab sector did not decline and may have even increased.<sup>13</sup>

Blass and Adler report the existence of significant disparities between the education systems in the Jewish and Arab sectors. They draw particular attention to the gap in teaching hours per student; a massive gap of almost 300% in the percentage of individuals with at least thirteen years of education; a decline in the average level of education among the Arab population over the previous decade; a dropout rate that exceeds that of the education system as a whole; a low level of performance in many of the national evaluation exams at the elementary-school level and in the *Meitzav* exams (standardized testing); and a low percentage of students attending institutions of higher education.<sup>14</sup>

## **Industrial Development in the Arab Sector<sup>15</sup>**

### ***The Or Commission***

“The state must initiate, develop, and operate programs, that will close gaps with an emphasis on budgets, in all that relates . . . to industrial development.<sup>16</sup>”

### ***The Lapid Committee***

In the following resolution, there is a remedy that addresses the conclusions of the Or Commission. Government Resolution 737 of August 19, 2003 instructed the Ministry of Industry, Trade, and Labor to submit, within thirty days, a proposal for adding Arab municipalities to joint administrations of nearby industrial areas (as has already been done in the case of the Tzahar Industrial Area and the town of Tuba-Zangariyye, and the Kidmat Galil Industrial Park and the town of Tur‘an). This process will also involve considering the possibility of making a provision of benefits according to the Encouragement of Capital Investments Law in implementing this combination . . . The Ministry of Industry, Trade, and Labor, the Council for National Security, and the Coordination and Supervision Branch of the Prime Minister’s Office are jointly formulating modes of action.

Industrial areas in Israel constitute a significant engine of growth in the localities in which they are established and for nearby localities as well. The municipalities in which the industrial areas are established benefit from local property tax (*arnona*) and the residents of the area gain from places of employment. A disparity exists between the level of industrial development among Arabs in Israel and among the rest of the population.

Industrial Areas Administration (IAA) is a body within the Ministry of Economy that is charged with establishing, developing, and marketing industrial areas within Israel’s National Priority Areas. Between its establishment in 1992 and 2011,<sup>17</sup> the IAA invested in the development and establishment of 136 industrial areas in National Priority Areas, covering a gross total area of 135,200 dunams (public land and land designated to be marketed to entrepreneurial enterprises), mostly in peripheral areas. Of these 136 industrial areas, twenty-six have been designated for Arabs (19%).

Over the years, the rate of investment in industrial areas in the Arab sector has been lower than that in the Jewish sector. This negative bias has detrimentally affected the income of Arab municipalities from local property tax, as well as the employment opportunities of the residents of these municipalities. This low level of investment has stemmed from a combination of budgetary discrimination against Arabs and the unwillingness and inability of the Arab localities to absorb and develop industrial areas in their close proximity, due to their poor level of municipal infrastructure and the administrative and managerial problems of the Arab regional councils.

As noted above, the Or Commission stressed the need for the government to assume responsibility for the task of closing the gaps in the funding of industrial development in the Arab sector.<sup>18</sup> The Lapid Committee reinforced the Or Commission's recommendation by noting that Government Resolution No. 737 of August 19, 2003 had charged the Ministry of Industry, Trade, and Labor (today, the Ministry of Economy) with submitting a proposal for incorporating Arab municipalities into the joint administrations of nearby industrial areas and to consider the possibility of providing benefits according to the Encouragement of Capital Investments Law in implementing their incorporation.

Below is an analysis of the emergence of the disparities in industrial areas between the Arab minority and the rest of the population in Israel and the causes of this gap, as well as a discussion of decisions and actions taken by the government to reduce this gap in the aftermath of the Or Commission, and their rate of success.

### ***Background: Industrial Areas in Israel and National Priority Areas***

The Encouragement of Capital Investments Law, which was enacted in 1959 and underwent comprehensive amendment in 2011,<sup>19</sup> authorized the Israeli government to declare National Priority Areas that would provide tax benefits, land leasing cost subsidies, wage subsidies, and grants to entrepreneurs who invest in these areas as a means of encouraging industrial investment and increasing employment in peripheral areas. Under the law, the country was divided into three National Priority Regions—A, B, and C—according to a model that calculated factors such as geographical distance from the center of the country, socioeconomic conditions, employment conditions, proximity to a border, security conditions, sectoral affiliation, as well as legal, political,

regulatory factors, and more. The aim was to attract entrepreneurs to locations where the government desired. According to this division, entrepreneurs investing in National Priority Area A enjoyed the most benefits and those investing in National Priority Area C enjoyed the least. Over the years, the country's peripheral areas and National Priority Areas have witnessed the establishment of a large number of industrial areas,<sup>20</sup> which have provided employment to residents of the surrounding areas and have helped improve the economic and social situation in these localities.

Thus far, the Arabs in Israel have not benefited from the Encouragement of Capital Investments Law relative to their share in the population. Support for this assessment can be found in a government resolution from 1998, which classified Israeli settlements into National Priority Areas A and B, but included only four Arab settlements in the 492 settlements that were classified as having national priority. Pursuant to this government resolution, which was not grounded in any clear criteria, Adalah: The Legal Center for Arab Minority Rights in Israel petitioned the High Court to order the addition of Arab localities to the country's National Priority Areas.<sup>21</sup> The petition played a role in motivating the Israeli government to update the National Priority Areas in 2012 and 2013,<sup>22</sup> by adding a large number of Arab settlements to the map of high level National Priority Areas. As a result, many settlements in the Arab sector are now eligible for the benefits stipulated by the Encouragement of Capital Investments Law, as well as additional benefits due to their classification as National Priority Areas.

Despite the fact that many Arab settlements today are classified as National Priority Areas, which means, among other things, that those who invest in them are entitled to benefits under the law, many investors refrain from investing in these localities and prefer establishing industrial areas in Jewish localities. The reasons for this preference include business concerns of unsound infrastructure; the untrained workforce and improper public administration that characterize many Arab localities; the lack of adequate public transportation; and other such factors. This preference, however, may also stem partially from discrimination.

### ***The Arab Sector's Economic Need for the Development of Industrial Areas***

At the end of 2013, Arabs in Israel accounted for 20.9% of the total population of Israel. At the same time, 62.6% of the country's overall population lived in Jewish settlements; 15.4% in Arab settlements; and 22% in mixed cities. The poverty rate in Arab settlements is higher than in other parts of the country and the workforce participation rate is lower, as is the rate of high school graduates who are entitled to matriculation certificates or who meet the minimum requirements for acceptance to university.<sup>23</sup>

According to a study carried out by the Injaz Center and Sikkuy,<sup>24</sup> one reason for the low income from local property tax in the Arab sector is the population's lack of property that generates commercial property tax. The study completely debunks the claim that the poor economic situation is the result of a low level of local property tax collection from residential homes in Arab municipalities. Although it is true that these municipalities do earn less from local property tax, proper collection would not improve their condition in any significant way. A number of studies have considered the reasons for the low level of property tax collection. Adi Brender's 2004 study maintains that discrimination and the Arab sector's lack of trust play a role in the low rate of collection,<sup>25</sup> and that this conduct on the part of the Arab sector and Arab local government is consistent with the negative expectations articulated in the literature that discuss the conduct of minorities who feel underprivileged. At the same time, the collection rates from Arab residents in mixed cities are no less than their Jewish counterparts, which is a finding that runs counter to these theories.<sup>26</sup>

The study by the Injaz Center and Sikkuy compared Arab and Jewish municipalities that were characterized by similar socioeconomic backgrounds and located in the same geographical region, which enabled the researchers to isolate the national factor. According to the study, if the rate of collection among Arabs was equal to that among Jews, the gap in income from local property tax would shrink to a mere 10%. However, if the tax bases were equal, meaning, if there was an equal distribution of assets generating property tax, the gap in such income would be reduced by 65%. The issue of properties that generate property tax, however, is not the only explanation for the dire economic situation of the Arab municipalities. Another is their relatively low level of management, which is the result not only of corruption

and improper management practices but also the growing lack of faith in the Jewish establishment among the leaders of these municipalities.

The study also found that disparities in budget sources between Arab and Jewish municipalities have been manifested primarily in their independent sources, and not in government funding, and stem from a number of problems. The most fundamental problem is the low tax base; that is, the meager assets that generate property tax in every category: residential, industrial, trade, tourism, banks, infrastructure facilities, and so forth. For example, in Israel's Northern District, the per capita income from local property tax paid by businesses stood at NIS 132 per person in Arab municipalities, as opposed to NIS 390 per person in Jewish municipalities of comparable socioeconomic rank and size in the same geographical region. In the Southern District, the study revealed an even wider gap: NIS 47 per resident in Arab settlements versus NIS 355 in Jewish settlements.<sup>27</sup>

In Arab municipalities, income from local residential property tax accounts for 78% of the total income, and property tax from non-residential structures constitutes only 22%. In comparison to the other municipalities, this is the lowest rate of non-residential property tax-based income, which accounts for more than half the income of most municipalities.

Today, even the government acknowledges that discrimination is responsible for the dire conditions of the Arab municipalities. This conclusion has been well articulated by Amir Levi, director of the Budgets Department in the Finance Ministry, who, during a visit to Sakhnin, said that "the methods of allocation for Arabs of Israel are not equal . . . There are large disparities in the resources allocated to public transportation, the distribution of income from commercial local property tax, joint industrial areas of Jewish and Arab localities, and education." According to the research on the subject, only 2–3% of all employment areas in Israel belong to Arab municipalities, even though Arabs make up more than 15% of the population (not including the mixed cities). The percentage of property tax-generating commercial properties vis-à-vis the number of residents is 50% less than in Jewish settlements, and percentage of the properties generating industrial property tax is 91% less. The average income of a resident of an Arab municipality is 67% less than the average income of a resident of the other municipalities. The government also transfers between NIS 800 and 900 million to different municipalities in the form of local property tax for government buildings. The Finance

Ministry has recently been considering the possibility of distributing these funds in a manner that would allow weak municipalities, most of which are Arab, to also enjoy them and to ensure that government ministries, military bases, and large infrastructure facilities located in a few specific cities cease to be an advantage for Jewish cities.<sup>28</sup>

In this situation, the rate of tax collection in the Arab municipalities is lower than average; the rate of residential property tax is higher than the national average; and the rate of income from commercial property tax is low, as a result of both collection problems and the incomplete registration of businesses in Arab towns and villages. The result has been that most of the income of the Arab municipalities has been provided by government funding. As a result, it appears that the establishment of industrial areas in the Arab sector or joint industrial areas that incorporate the Arab sector would increase local property tax payments and help the Arab municipalities invest in education and infrastructure, in order to reduce the disparities, on the one hand, and help increase employment, on the other.

### ***The Development of Industrial Areas in the Arab Sector***<sup>29</sup>

From a chronological perspective, the development of industry in the Arab sector occurred in three main stages: the development of micro-industry within the localities themselves (1973–1997); the construction of sector-designated industrial areas (primarily 1997–2001); and, beginning in 2001, the transition to a model of regional Jewish-Arab joint industrial areas.

The transition from the stage of development of micro-industry within the localities (1973–1997) to the construction of sector-designated industrial areas revealed a number of major obstacles:

1. Industrialization resulted in environmental and sanitation nuisances in the Arab localities, proved detrimental to the quality of life of their residents, and did not serve to encourage entrepreneurs to invest in them.
2. Poor maintenance in the Arab localities made it difficult to maintain industry on a large scale in these communities and did not encourage entrepreneurs to invest in them.
3. A reduction in the scope of land for industry within the communities and the complex private land ownership structure in the Arab sector resulted in difficulties in the allocation of land for industrial use in this sector.

4. Many Arab communities are characterized by a low level of management and by administrative problems caused primarily by the sector's social structure and relations between the different clans. Numerous communities also lack a designated supervisor to manage industry within their borders. In many cases, the management of industry is entrusted to a municipal clerk who is responsible for local industrial affairs, in addition to other responsibilities within the municipality. These management and administrative problems have resulted in poor collection of local property tax, which is required for the development of industry in the Arab communities, and a low level of planning, supervision, and development of industry in these localities. These problems do not encourage entrepreneurs to invest in these localities.
5. Political issues and remnants of past relations between the Jewish and Arab sectors have also affected the motivation of Jewish entrepreneurs to invest in Arab localities.

As a result of these obstacles, the Ministry of Economy (then, the Ministry of Industry, Trade, and Labor) adopted a new model for the development of industry in the Arab sector, based primarily on the establishment of designated industrial areas located outside the localities themselves. The basis of the new model was the belief that designated industrial areas would increase modernization and improve the management and administrative standards in industry in the Arab sector, and, in doing so, attract entrepreneurs to invest in them. The initial motivation for building the designated industrial areas for the Arab sector came primarily from the state, which in 1997 began the process of planning the first industrial area designated for the Arab sector in the village of Maghar on land of the Israel Lands Administration. As a result of bureaucratic and administrative problems, however, approximately a decade elapsed between the decision to establish the industrial area until its operation, primarily due to problems in selecting the body that would provide the funding for the required infrastructure and sewage system.<sup>30</sup>

Of the total number of industrial areas designated for the Arab sector established by the IAA until 2011, twenty-six were established as part of a nation-wide government policy of developing industrial areas in the periphery known as "land awaiting an entrepreneur." Between 1992 and 2001, this policy resulted in the establishment of industrial areas all over the country, with the goal of selling them to entrepreneurs in the future. The

process of establishing the industrial areas revealed a number of obstacles that detrimentally affected their development, the most prominent of which included:

1. The lack of potential land designated for industry within the jurisdiction of the Arab municipalities, partly as a result of the encumbering and bureaucratic nature of the process of planning and developing land designated for industry in general and industry in the Arab sector in particular.
2. Underdeveloped infrastructure and low levels of maintenance and cleanliness—The inferior level of infrastructure and the level of maintenance in the industrial areas of the Arab municipalities do not encourage entrepreneurs, and especially Jewish entrepreneurs, to invest in these areas. For example, some of the land in industrial areas are used as dumps, resulting in serious sanitation hazards. Many municipalities in the Arab sector suffer from budgetary problems due, in part, to unsuccessful management and difficulties in collecting property tax. This, in turn, exacerbates the neglect of infrastructure and does not encourage the investment of entrepreneurs.
3. Management and administrative problems in the Arab municipalities—The Arab sector is characterized by a structure based on clans, which sometimes have conflicts of interest. Arab mayors at times have used their administrative powers in an industrial area to advance their own personal interests and the political interests of those closely related to them, for example, by not taking administrative measures against relatives who used the industrial land allocated to them for purposes other than industry. Many industrial areas in the Arab sector contain buildings with a ground floor that is used for commercial purposes and a second floor that is used for residential purposes. In addition, mayors frequently refrain from taking legal and administrative action against close associates with whom they do business or against an enterprise in the industrial area for failing to pay property tax. Such trends have done little to encourage entrepreneurs to invest in industrial areas that are designated for Arabs and have made it more difficult to market property in these areas. Moreover, conversations with the heads of industrial area administrations indicate that many Arab entrepreneurs prefer to establish their businesses in Jewish industrial areas.

4. Non-ambitious mayors—Such mayors do not actively pursue government officials and ministries. As a result, they receive fewer funds and authorizations and less assistance in establishing designated industrial areas in comparison to Jewish municipalities.
5. A shortage of professional human resources—The workforce in Arab society is characterized primarily by non-professional workers and focused on a number of traditional economic sectors. As most of the potential employees in Arab industrial areas are from the Arab sector, many entrepreneurs seeking to establish enterprises based on advanced industry prefer to do so in industrial areas within the Jewish sector or in joint industrial areas.
6. The employment of Arab women—Many Arab women prefer to work close to home, and this reduces the motivation of entrepreneurs to establish enterprises in remote industrial areas, primarily in sectors of the economy that rely on the employment of women. Nonetheless, a change in this trend has emerged over the years, and today more Arab women work outside the localities in which they live.
7. Poor branding of industrial areas that are designated for Arabs—The poor branding of industrial areas that are designated for Arabs does not encourage entrepreneurs to invest in them.
8. Speculation involving industrial land—In many cases, entrepreneurs have made speculative use of the land allocated to them in industrial areas that belong to Arabs. For example, in some cases, entrepreneurs have requested that they be allocated land in such areas, without any intent to build a factory there. After the land was allocated, they sought to sell their rights to other parties.

As a result of these difficulties, and apparently also due to the government's failure to take action to improve the economic situation of the Arabs, the rate of investment by the State of Israel in the industrial areas designated for Arabs has been only about 11% of the total investments in industrial areas in the National Priority Areas, which is proportionately less than the percentage of the Arab population. As a result, between 1995 and 2008, the State of Israel invested approximately NIS 340 million (according to 2009 prices) in Arab industrial areas characterized by having small areas for industry (an average of 100 dunams, or approximately 25 acres) and local traditional patterns of employment.

**Table 2: Share of Investment in the Development of Industrial Areas by Sector, 1995–2008**

Sector	Share of Investment	Total Investment in NIS billions (2009 prices)
Jews	89%	3.03
Druze	3%	0.1
Muslims	8%	0.27
Total	100%	3.4

*Source:* Research and Economic Administration of the Ministry of Industry, Trade, and Labor, “Joint Industrial Areas for Jews and Minorities and Their Contribution to Employment among Minorities.”

### ***Joint Industrial Areas***

The solution to these problems and to the business sector’s tendency to choose to establish industrial areas in Jewish settlements instead of Arab settlements was the plan to establish joint industrial areas in 1989. Its aim was to build industrial areas administered jointly by Jews and Arabs and to promote the thinking that led to the Encouragement of Capital Investments Law, with a stronger emphasis on integration and closure of the disparities suffered by the Arab population in Israel. The 1990s witnessed the beginning of initiatives to establish joint industrial areas, primarily in peripheral areas in the North, the Central Region, and the Negev, where the majority of the country’s Arab population is concentrated. These industrial areas were meant to achieve a dual purpose: to increase growth and employment, in the periphery in general and in the Arab sector in particular, and to create points of interface between the country’s Arab and Jewish populations.

In 2001, the government of Israel began a new development policy in which the development of land in industrial areas in National Priority Areas would not be done in advance, but rather in accordance with preliminary allocation of land to an entrepreneur and after its implementation. Under this policy, the state also gave precedence to marketing the land in existing industrial areas over the expansion or establishment of new industrial areas. An outcome of this new policy was a significant reduction in the budget for establishing and expanding industrial areas on a nation-wide level, which resulted in a decreased budget for establishing and expanding industrial areas designated for Arabs. In the meantime, beginning in 2001, we witnessed

the state's transition to a policy that encouraged the establishment and expansion of regional industrial areas, jointly administered by Jews and Arabs; nonetheless, a report of the directors of the administrations of the Tzahar and Kidmat Galilee joint industrial areas and officials in the IAA indicated that the transition to joint industrial areas was replete with numerous obstacles related to the past, a sense of deprivation among the Arabs, and a feeling of mutual distrust between the two sectors. It is important to note that industrial areas designated for Arabs were also established after 2001, but on smaller areas of land and using fewer financial resources than during 1992–2001. This stemmed from the ongoing need for the development of designated areas for businesses that provided regular everyday services (such as car- and tire-repair shops) in the proximity of these Arab localities.

This policy is reflected in a government resolution from 2003 that called for the encouragement and promotion of joint employment areas shared by Jewish and Arab local municipalities. According to this model, the land used is typically located within the jurisdiction of the Jewish municipality (usually a regional council), and serves to establish a new employment area or expand an already existing one. The Arab municipalities share in the management and the proceeds of the property tax generated by the new employment area, even though it is located within Jewish municipal jurisdiction.

The model is characterized by ostensibly joint management aimed at substantially increasing the income generated by local property tax for the Arab municipalities, which, in turn, should have a fundamental impact on the budgetary framework of these municipalities. A government resolution has attempted to limit the establishment of employment areas that do not include neighboring Arab localities, but its implementation has been extremely partial. In any event, the fact that the government has encouraged the establishment of joint employment areas and, in some cases, even has made the admission of Arab localities as a condition for the expansion of existing ones, should spur municipal partnership for engaging in this realm.

At present, there are five joint employment areas: Tzahar, which includes Tuba-Zangariyye, Safed, and Rosh Pina; Kidmat Galilee, which comprises Tur'an, Tiberias, and the Lower Galilee; Dalton, which includes Gush Halav, Hurfeish, Fassuta, Merom HaGalil, Safed, and other localities; Lehavim, which consists of Rahat, Bnei Shimon, and Lehavim; and Mevo Carmel,

which includes the villages of Daliyat al-Karmel, Ussifiya, and Megiddo. Other joint employment areas are currently in various stages of planning.

The extent to which industrial areas under joint Jewish-Arab administration have contributed to Arab employment in Israel is questionable, as in many cases the Arab workers have worked in these areas even before they became joint industrial areas. Their role in establishing Arab-owned businesses is also unclear. Nonetheless, their immediate contribution to Arab localities is manifested in the collection of property tax, which has provided the Arab municipalities with substantial budgetary additions from existing employment areas and not just emerging ones. In addition, the joint industrial areas help accelerate modernization and industrial development, in addition to disseminating proper managerial norms within the Arab sector.

Nevertheless, a number of factors still prevent Arab localities from joining joint industrial areas and the establishment of such areas altogether. They include:

1. The fear among Jewish mayors that administrative partnership in an industrial area will encourage manipulation and speculation of the properties, detrimentally affect the managerial norms of the industrial area, and result in poor branding and reduced value. As a result, Jewish mayors are unwilling to share the income from local property tax for existing employment areas, and are only willing to share the property tax income for some of the expansions.
2. Concern among Arab mayors that the development of joint employment areas will prevent them from establishing industrial areas designated specifically for the Arab population in their localities. Arab mayors are also afraid that signing such agreements will constitute de facto renunciation of the claims of some Arab localities to the land on which the industrial areas are located.
3. The existence of ethnic division and social and political polarization between the sectors.
4. Obstacles posed by the central government. It seems that senior officials, due to their own personal views, attempt to prevent the allocation of land to Arab localities.
5. The Ministry of Economy's unwillingness to fund and promote industrial areas on private land (it is preferred that they be established on land belonging to the Israel Lands Authority), although a large portion of the

relevant land for the establishment of industrial areas is located within the boundaries of Arab municipalities and is usually private land.

6. Insufficient action by the Planning Administration (which is responsible for advancing government policy on this issue) to ensure its implementation.

In conclusion, changes in the level of employment, the sense of belonging, and the cooperation of businesses from different sectors are complex, long-term processes influenced by social, economic, and employment-related factors, as well as by the social and economic policies of different governments and legal, regulatory, and political aspects. Therefore, at this point in time, it is difficult to reach an unequivocal conclusion regarding the extent to which joint industrial areas have contributed to the employment of Arab residents and have increased their sense of belonging to the state.

## **The Government Authority for the Advancement of the Minority Sectors<sup>31</sup>**

### *The Or Commission*

This is the most sensitive and important domestic issue facing Israel today. As such, it requires the personal involvement and leadership of the prime minister. The issue has been neglected for many years and has not been dealt with appropriately. It demands that immediate, medium-term, and long-term action be taken.<sup>32</sup>

### *The Lapid Committee*

A proposed resolution—The Ministerial Committee on the Non-Jewish Sector, led by the prime minister, shall be a standing committee. A government authority shall be established under the authority of the prime minister. It shall be named the Authority for the Advancement of the Minority Sectors, and its goal shall be to advance and address the problems of the Arab sector, including planning and building issues, budgets, the prevention of discrimination, due representation in the civil service, the advancement of education, and integration into Israeli society and the Israeli economy. The task of the Authority will be to ensure and monitor the implementation of the decisions of this ministerial committee, to maintain regular contact with the different government ministries with regard to

the treatment of the minority sectors, and to report on this subject to the prime minister and the ministerial committee.

**Explanatory Note**—It is suggested that the Authority for the Advancement of the Minority Sectors operate autonomously and continuously and be provided with an accompanying auxiliary mechanism. The existence of an authority as described above will ensure stability, continuity, structured treatment, and monitoring of the issues in its field of operation. The Authority's budget will be coordinated between the Prime Minister's Office and the Ministry of Finance.

Although the Or Commission and the Lapid Committee recommended the establishment of a government authority for the advancement of Arab society in Israel, only in 2007 was the Authority for the Economic Development of the Arab, Druze, and Circassian Sector established within the Prime Minister's Office. The authority's official purpose, as stipulated in the government resolution, is to maximize the economic potential of the state's Arab, Druze, and Circassian population and to integrate them into the national economy. The authority also is charged with coordinating, integrating, deliberating, and monitoring government activity aimed at the economic advancement of these populations. The authority is supposed to draw up annual and multi-year working plans; to set goals, timetables, and output measures; to take action to eliminate obstacles; and other such tasks.<sup>33</sup>

Since its establishment, the authority has been operating within the organizational framework of the Prime Minister's Office and receives basic funding from its budget. The authority has fourteen employees and is directed by Ayman Saif. Its budget in recent years has been as follows: NIS 20 million in 2010; NIS 16 million in 2011; NIS 14 million in 2012; and NIS 18 million in 2013 (these figures refer to the budgets of projects in which the authority is involved, out of the authority's regular budget within the framework of its operations within the Prime Minister's Office, and does not reflect the government activities for which the authority is not responsible, estimated at hundreds of millions of NIS per year).

### ***The Establishment and Goals of the Authority***

In the past few years, the government has invested resources in the development of infrastructure in Arab, Druze, and Circassian

localities. This, however, has not resulted in making full use of the potential of this population. It is therefore necessary to advance programs and invest in the development of economic tools to help increase the economic activity within the minority localities. At the same time, it is also necessary to take action within government ministries and local municipalities to place the Arab, Druze, and Circassian population on the national agenda and to involve leading forces within these populations in the economic development of the localities. This is the goal for which the Authority for the Economic Development of the Arab, Druze, and Circassian Sector in the Prime Minister's Office was established . . . I believe that the Authority will serve as a government body that researches, coordinates, initiates, creates, and advances economic programs, projects, and tools aimed at helping increase the economic activity within Arab, Druze, and Circassian localities and their integration within the national economy. By doing so, it will reduce the disparities between the sectors and create one economy and one country (Ayman Saif, director-general of the Authority for the Economic Development of the Arab, Druze, and Circassian Sector).

The Authority for Economic Development has two main goals: to develop and strengthen the existing economic foundation of the Arab population and to integrate this population into the state economy. The fulfillment of these two goals could enable the Israeli economy to reclaim Arab society's lost inherent potential for economic growth and bring about significant growth in the state's Gross Domestic Product.<sup>34</sup>

The government has implemented a number of multi-year plans for the socioeconomic development of the state's minority populations at an approximate cost of NIS 5 billion over the period 2010–2016, and will implement projects at an approximate cost of NIS 15 billion over the period 2016–2020. In 2013, the Authority for Economic Development continued to implement three major plans that are anchored in government resolutions: (1) a five-year plan for the development of the localities; (2) a housing plan for the minority sectors; and (3) an employment plan. These plans have a combined budget of NIS 1.8 billion.

Over the course of 2013, the authority continued to implement and advance an organizational strategic plan to strengthen and integrate Arab

society into the national economy, both in the short term (five years) and the medium term (ten years).

The process of building the strategy consists of four stages:<sup>35</sup>

1. Completing an updated assessment of the economic and social condition of Arab society in Israel, in order to formulate a multi-year strategic plan that can then be translated into multi-year working plans;
2. Conducting a comparative study of the integration of minorities around the world. The aim of the study will be to examine actions taken by five countries with attributes similar to those of Israel, and to learn about the approaches, bodies, mechanisms, and budgets that have contributed to the successful integration of minority populations—with a focus on the bodies leading the process—for the purpose of designing the authority’s organizational policy;
3. Designing organizational policy by convening a number of professional forums using a “roundtable” format to determine the authority’s vision, the actions to fulfill this vision, its approach, and its organizational structure;
4. Assimilating multi-year working programs within the government planning systems for the purpose of measuring and supervising the different plans and projects that are aimed at integrating minorities into everyday life in Israel.

As part of the strategic plan for strengthening and integrating the minority population into the national economy, the Authority for Economic Development continues to develop an index for assessing and monitoring the rates of success of the plans and projects aimed at integrating Arab society into the economic and social systems in Israel. The model contains a number of indexes and sub-indexes, which together will constitute the measure of integration. The authority regards the development of the integration index as an important and significant tool in terms of decision making, prioritizing, and future planning for the effective allocation of resources by the Israeli government, and for turning the state into a world leader in the field of integrating minorities fully and genuinely into the Israeli economy and society.<sup>36</sup> In addition, the Authority for Economic Development has held a roundtable conference once every quarter since the summer of 2012 in order to comprehensively examine the issues that promote the socioeconomic development of the minority population in Israel.

### ***Responsibilities and Powers of the Authority for Economic Development***

With regard to the economic development of the minorities' sector, the main role of the Authority of Economic Development is to advance the following issues:<sup>37</sup>

1. The development of financial tools for encouraging initiatives and investments in the minority sector, including by encouraging the establishment of private investment funds in the business sector among minorities, through direct investment (among other things)
2. The integration of businesses from the minority sector into the broader economic activity
3. Integration of municipalities into regional industrial areas
4. Encouraging enterprises from the minority sector to serve as providers of goods and services for the government
5. Promoting investments in the minority sector
6. Increasing the accessibility of government tools for assistance
7. Encouraging joint Jewish-Arab business activity
8. Promoting entrepreneurial activity by municipalities by means of detailed plans for economic development, investor incentives, and other such measures.

The authority's primary responsibilities in terms of government activity for the economic advancement of the minority sector are as follows:

1. The formulation of written opinions, in cooperation with the National Economic Council and the relevant government ministries, regarding proposed government budgets prior to their submission to the government and the proposal of alternatives, when necessary, regarding socioeconomic issues that pertain to the minorities' sector.
2. Preparation of professional written opinions, in cooperation with the relevant ministries, regarding proposed resolutions on the agenda of the government and governmental committees and their potential economic and social impact on the minority sector.
3. Coordination of an inter-ministerial team for formulating and advancing initiatives for economic development, including representatives of the Ministry of Finance, the Ministry of Industry, Trade, and Labor, the Ministry of Tourism, and the Authority for Economic Development.

The team will serve as a professional subcommittee that will advise the authority on promoting economic initiatives.

4. The submission of annual reports to the government regarding socioeconomic disparities between sectors of the population and actions taken by the government to reduce these gaps.
5. Preparation of a report on government activity and a working plan for the minority sector<sup>38</sup> that details the scope of plans and budgets designated for the Arab population and the manner in which ministries have prepared themselves to make effective use of these budgets.

The authority's realm of activity focuses on six areas (the first four are primary areas and the last two are secondary). The first area of focus is upgrading and developing the business sector. The Arab business sector has important economic potential for the integration of minority populations into the national economy. It is characterized by unique attributes and patterns of behavior that differ from those in the Jewish sector, with visible differences in the structure and size of businesses, the division into economic branches, and geographic location. Promoting initiatives of the minority populations provides an opportunity for their economic integration. The Authority for Economic Development views the encouragement of businesses and initiatives of the Arab sector as a means of integrating the minority population into the Israeli economy. In conjunction with the Research and Economic Administration of the Ministry of Industry, Trade, and Labor, the authority launched an initiative to develop tools for learning and evaluating the characteristics of and obstacles to Arab-owned businesses. Among its findings were that

1. Small businesses face a larger percentage of obstacles relating to the increasing competitiveness of the economic sectors in which they operate. Additional difficulties stem from remote geographic location and a shortage of industrial and commercial land.
2. Medium-size businesses contend with a higher percentage of difficulties in acquiring bank credit.
3. Large businesses struggle with a greater level of difficulty (in comparison to other businesses) of accessing the Jewish sector, recruiting employees, as well as a shortage of equipment and raw materials.

In 2009, in light of these findings, the authority started *al-Bawader*, a joint investment fund between the government (as a limited partner) and

the private sector, with the aim of facilitating investment in businesses in the minority's sector. The fund manages a sum of NIS 160 million (half invested by the government of Israel and half invested by the private sector). The fund assists in improving existing businesses in the minority sector and establishing new ones. It also assists these businesses in regular management, strategic planning, and the provision of funding sources. Thus far, the fund has invested approximately NIS 50 million in seven companies. Business owners also have access to capital and investment funds supported by the government, such as the government-guaranteed Small and Medium-Sized Business Fund; a micro-finance fund for women from the minority sector; and the Fund for the Encouragement of Foreign Marketing. In June 2010, with the cooperation of the Israel Export Institute and the Trade Administration of the Ministry of Industry, Trade, and Labor, the authority began to implement the Tevel Program, which was initiated to help businesses in the Arab sector begin exporting their products. Tevel also provides assistance and long-term professional guidance on the export process to companies in the minority sector with potential in the realm of exports (so far, thirty-one companies from the Arab sector have taken part in the Tevel Program).<sup>39</sup> To help the Arab business sector, the authority also has implemented other projects, such as publishing a plan for "making government, public, and private purchasing accessible to businesses in the minority sector," in conjunction with the Small Business Development Center (MATI) for Nazareth and the Arab localities of the Galilee; expanding and upgrading existing industrial areas and constructing new areas; and the upgrading of the professional level of the workers and the senior management.

The second area of focus of the Authority for Economic Development is upgrading the human capital and improving access to higher education. Education is a key to success in life and paves the way for social and economic mobility, particularly in light of the fact that the component of human capital is one of the relative advantages relied upon by the Israeli economy. Analysis of the economic attributes of the minority population in Israel indicates that education is a factor that has a large degree of influence on the population's capacity for long-term integration into the economy. Studies indicate that as the level of education among the minority population increases, so does the income level and the rate of women's participation in the workforce, whereas the incidence and level of poverty decreases. The disparities in levels of

education are a significant factor explaining much of the gaps in income and poverty between the minority and the majority population. The Authority for Economic Development regards the upgrading of human capital and increased accessibility to higher education as a fundamental component of its work in integrating the minority population into the economy. It believes that the path to socioeconomic mobility runs via the country's schools and institutions of higher education, for the benefit of the citizen and the state alike. The activities of the Authority for Economic Advancement have included the launching of a multi-year program during the 2012–2013 academic year, and in cooperation with the Council for Higher Education and the Planning and Budgeting Committee to increase the accessibility of higher education among minorities. The program, which was implemented at a cost of NIS 305 million, includes some 1,800 scholarship recipients who receive financial aid for undergraduate studies; academic excellence programs for graduate students; and the intention for integration into the job market. Other activities of the authority have included the launching of the unique “Artika” scholarship fund for minorities, in cooperation with the Council for Higher Education, the Ministry of Education, and philanthropic sources for a total sum of NIS 15 million. It also operates an academic program designed for approximately 500 distinguished female students from the minority sector, which is geared toward helping participants choose a subject of academic study, providing them with ongoing guidance prior to and during their studies, and preparing them to enter the job market.

Third, the Authority for Economic Development focuses on economic empowerment of minority municipalities. Municipalities in the minority sector suffer from a narrow tax base and limited self-income, which prevents them from achieving economic independence. The existing socioeconomic disparities between localities of the minority and majority population led to the creation of a five-year government plan (2010–2014) that focused on economic development in minority localities. The program was formulated by the authority, in cooperation with government ministries, and was approved by Government Resolution No. 1539 on March 31, 2010 at a total cost of NIS 800 million (by the end of 2013, NIS 577 million of this amount had been approved from the program's budget). The program is based on the premise that in order to bring about fundamental change, it needs to focus on a limited number of areas, including economic and employment

development, transportation accessibility, and housing and real estate. Accordingly, the program focuses on four areas with the aim of creating engines of growth and stimulating economic processes. It is based on cooperation with municipalities and the creation of professional municipal structures to ensure the implementation of the plan and the continuity of the processes.

The program focuses on thirteen localities that contain Muslims, Christians, Druze, and Bedouin, and together account for 25% of the country's overall minority population. Its aim is to bring about meaningful change in these localities, which were selected based on clear criteria, most importantly population size, municipal government stability, and proper financial management on the part of the municipality. The localities included in the program are Umm al-Fahm, Daliyat al-Karmel, Tira, Tamra, Kafr Qasim, Maghar, Nazareth, Sakhnin, Ussifiya, Arraba, Qalansu'a, Rahat, and Shefa-ʿAmr. The implementation and management of the plan have been entrusted to the Authority for Economic Development. In March 2012, following the work of the Trajtenberg Committee, the government decided to expand the five-year plan's section on housing and real estate to include fifty-eight additional Arab localities, at a cost of NIS 250 million between the years 2012–2016, and to charge the authority with its implementation.<sup>40</sup> In addition, a government resolution from February 9, 2014 classified the city of Tayibe as a locality of national priority, which, between 2014–2017, would be the focus of a special government plan consisting of the following: (a) empowerment of the city's residents and enhancement of their economic resilience; (b) enhancement of the city's socioeconomic resilience and economic independence; and (c) creation of a foundation of planning for developing the city and contending with the phenomenon of illegal building.

Fourth, the Authority for Economic Development focuses on integration into the job market. The integration of the minority population into the job market is a goal that has important implications at the local and national levels and directly influences the growth rate and the incidence of poverty in the country. The authority has focused its efforts on removing obstacles, and, in conjunction with government ministries and other organizations, it runs programs aimed at making the most of the minority sector's economic potential for employment expansion, promoting its proper integration into the labor market, and improving its earning capacity. The maximum workforce potential of the minority population is found in three groups: women,

university graduates, and young adults. In accordance with the Trajtenberg Committee's recommendation to reduce social gaps by increasing the employment rate of the minority population, the authority implemented a five-year plan (2012–2016) with a total budget of NIS 730 million, which included measures to increase employment among the minority population.

The authority also operates in other frameworks to make progress in this field, in cooperation with organizations and nonprofit associations. The actions taken by the authority have included establishing career centers (five of the six planned career centers are currently in operation, serving 600,000 people at the centers themselves and sixteen various branches); implementing a training program to prepare individuals for higher education; forming groups aimed at empowering Arab women and providing them with career guidance; designating additional benefits in the subsidy of day care centers for working women; establishing a program to provide basic education for people lacking matriculation certificates; developing existing industrial areas in Arab localities; increasing credit accessibility for small, Arab-owned businesses; implementing a program to encourage the employment of Arab university graduates in knowledge-rich industries (in cooperation with the *Kav Mashveh* association); promoting a 2013 media campaign (in cooperation with the Israeli civil service) calling for university graduates from the minority sector to join the civil service; increasing the use of the “employment track” grants of the Ministry of Economy, which provide grants to businesses that employ workers from sectors with low employment rates (covering 10–30 % of the cost of wages, subject to the fulfillment of certain criteria).<sup>41</sup>

Fifth, in addition to the areas outlined above, the Authority for Economic Development runs a number of projects of a distinctively social nature. They include the Wadi Atir project, an agricultural cooperative designated for the Bedouin population that aims to establish an ecological desert farm based on Bedouin traditional knowledge, in accordance with environmentally green principles; a project to establish a campus comprised of day care centers, a sports center, and an arts center for the rehabilitation of a large number of special-needs children from the Bedouin sector who suffer from serious developmental disorders and require special educational frameworks and paramedical treatments, so that they can be successfully integrated into the community as adults; implementation of the “Computer for Every Child”

program and the distribution of kits, technical support, and guidance in thirty-seven municipalities throughout the minority sector in 2011.

Lastly, the Authority of Economic Development supports local tourism. Due to the tourism sector's lack of growth in the minority sector, the authority is working on developing a number of projects in this field. One of these projects was the Desert Magic (*Kesem Hamidbar*) Festival for Bedouin tourism, which was held in the town of Lakiya in October 2014, and was a joint initiative between the Ministry for the Development of the Negev and the Galilee and the the Ministry of Tourism. In addition, in cooperation with the Prime Minister's Office, the Ministry of Tourism, the Ministry of Agriculture, and the Plants Production and Marketing Board, the authority takes part in the annual festival of the Olive Branch Days, which has been held in villages in the Galilee for two decades and offers an opportunity to get to know the traditional cultures of Israel's Arab, Druze, and Circassian populations. The authority also has developed a tourism infrastructure in Shefa-ʿAmr ("The Trail of Religions") and tourism festivals in Nazareth, Daliyat al-Karmel, and Ussifiya.

### ***The Critique of the State Comptroller's Office***

In 2012, the State Comptroller's Office reviewed the operations of the Authority for Economic Development and the fulfillment of its goals as set by the government. Its critique highlighted a number of shortcomings:<sup>42</sup>

1. The authority did not implement a multi-year plan and did not plan its required budget for the long term. In addition, the authority's annual work plan was not submitted as required to the Ministerial Committee for the Non-Jewish Sector.
2. Despite a government resolution, a steering committee for the authority, which would serve as a higher body and provide guidance and supervision, had not been established.
3. The authority had not yet initiated meaningful and practical action to encourage business enterprises from the minority sector to supply goods and services to the government.
4. Deficiencies were found in documentation of actions taken to promote financial investments in the minority sector.
5. The authority, in cooperation with the National Economic Council in the Prime Minister's Office and the relevant government ministries, had not

composed a written opinion on the budget prior to its submission to the government, and had not proposed alternatives regarding socioeconomic issues pertaining to the minority sector as was required.

6. In cooperation with the relevant government ministries, the authority is required to produce professional written opinions evaluating all social and economic proposals on the agenda of the government and government committees that would have an impact on the minority sector. It was found that the authority had submitted opinions on only some of these proposals.
7. The five-year plan stipulated that the Ministry of Construction and Housing would cover the costs of developing and improving state-owned land for the construction of up to 4,240 residential units, at a total cost of NIS 40,000 per unit. Although approximately half the time that was designated for the plan's implementation already had elapsed by the time the comptroller's inspection had been completed, only about 700 residential units (16.5%) built on state land had reached the stage that allowed the subsidy to be allocated. Moreover, it was doubtful whether it would be possible to meet all the targets by the end of the five-year plan in 2014.
8. The Tevel Program for the promotion of exports by companies in the minority sector had little success given the size of its budgetary investment. Criticism was leveled at the status of the authority. By definition, an authority is supposed to be a statutory authority possessing various powers; however, in practice, the Authority for Economic Development lacks the status of an authority and instead operates as a division out of the Prime Minister's Office. In addition, it also needed to integrate all the minority sectors (Arab, Druze, and Circassian), even though some of the activities involved other bodies within the Prime Minister's Office.<sup>43</sup>

### ***Recommendations for Improvement***

The following recommendations were made by the State Comptroller's Office in its evaluation for 2012, and were intended to be implemented by the authority and its steering committee:

1. Preparation of a multi-year work plan and detailed annual work plans for the coming years, including timetables for the implementation of the tasks assigned to the authority and the establishment of output measures

to allow the authority to measure and evaluate its work in promoting economic activity in the minority sector

2. Regular annual reporting to the government regarding all government actions aimed at the economic development of the minority sector, as well as the submission of a written opinion on the subject, in order to provide the government—when making its decisions—with a comprehensive understanding of the budget required and other actions that should be taken
3. Verification that the funds invested in implementing the five-year plan are utilized and achieve their expected goals
4. Consolidation within the authority of all the areas related to the economic development of the minority sector, currently in the various divisions of the Prime Minister’s Office.

### ***Conclusion and Evaluation***

Establishing the Authority for the Economic Development of the Arab Sector in 2007 was an essential step in changing the economic reality of Arab society in Israel. The authority operates in numerous areas and has been making progress in meeting the goals for reducing the existing gaps, albeit slowly and gradually. Policy makers seem to be pleased with its work thus far and are interested in its continuation. This is evident from the multi-year development plan—budgeted at NIS 570–690 million—that was approved by the Israeli government in December 2014 to replace the above-mentioned multi-year plan, which concluded at the end of 2014 and focused on only thirteen localities. The new plan focuses on the development of public transportation infrastructure, housing, sports facilities, tourism activity, and assistance in establishing employment areas in all the Arab localities in the country.

The State Comptroller’s Office’s criticism of the Authority for the Economic Development of the Minority Sector focused primarily on bureaucratic measures. A significant challenge facing the government is to ensure that the Authority for Economic Development continues to exist and expand its work in order to reduce the disparities between the populations (regardless of whether their causes are cultural or institutional in nature), based on the premise that integrating the Arabs into the economy is a mutual interest of both the majority and the minority.

## **Recommendations for Policy Measures to Effect Economic Change<sup>44</sup>**

The main problem of the labor market for Arab men in Israel is the high concentration in various low-level occupational sectors and unskilled occupations. Their concentration in these jobs means early retirement, as many of these jobs require physical fitness, which is exceptional, even in comparison to the workforce participation patterns of the Palestinians, as well as labor patterns in Muslim and Arab countries; a low average level of productivity and wages; their underemployment in advanced occupations such as high-tech; and a negative incentive among the younger generation to acquire education and skills, all which contribute to the fact that Israel's Arabs are one of the country's poorest groups and are trapped in a "cycle of poverty."

Among Arab women, their low rate of participation in the workforce is prominent. This means that Arab women do not play a significant role in the productive side of the economy; they do not help their families to extricate themselves from the cycle of poverty; and young women lack sufficient incentive to get an education and acquire the skills, including social skills, necessary to participate in the workforce.

These problems are the result of many different factors, including a relatively low level of education, limited geographical distribution, insufficient allocation of funds from the public sector, and cultural differences. These problems are intensified by occupational and wage discrimination and result in obstacles that hinder many Arabs from finding suitable employment. In addition, they are compounded by the high costs of travel to work as a result of the lack of transportation and/or the absence of a suitable support system (for example, daycare facilities for children). While some of these problems are related to the geographical distribution of the Arabs in Israel and the dismal transportation infrastructure serving the Arab sector, others, however, reflect the overall absence of support for working women.

These problems create a vicious cycle. When a population is poor, only partially participates in the labor market (Arab women), and faces obstacles in the labor market (Arab men), investing in education and developing jobs is a difficult undertaking. As a result, accomplishments in the labor market continue to be minimal. The physical and cultural distance from work and residential areas intensifies the sense of alienation and does not facilitate

joint efforts that could reduce discrimination. The build-up of these problems over the years has had a negative impact on the incentive and the willingness to change the situation.

The government has numerous means at its disposal to contend with these problems, including the ten described below:

1. Encouraging the demand for work—this can be facilitated by traditional measures, such as:
  - a. the creation of infrastructure for business enterprises and factories in relevant geographical areas, such as the establishment of industrial areas (including advanced industry) in close proximity to Arab localities that have a supply of relevant labor;
  - b. special development of the unrecognized settlements in the Negev in the field of employment, including the designation of land for the establishment of trade and production centers. Today, these settlements contain almost no infrastructure for such additions;
  - c. instruction and guidance in the fields of management and entrepreneurship, such as how to start a business, recruit and manage employees, engage in effective financial management, formulate sales forecasts, and more; subsidizing the establishment of new companies, especially small and medium-sized businesses;
  - d. assistance in acquiring credit from banks and foundations, such as government foundations for the provision of guarantees;
  - e. enforcing the requirement that companies receiving government assistance employ a number of Arabs proportional to their percentage of the population on the one hand, and companies' needs versus the skills of their potential employees, on the other hand;
  - f. engaging in more intensive activity to integrate Arab employees within the public sector, in accordance with standing government resolutions. The absence of state institutions in the Arab localities and the geographical distance of many residents of these localities require appropriate support.
2. Welfare-to-Work programs—In recent years, Israel had implemented programs designed to facilitate the transition of workers from welfare to employment, starting with the “From the Heart” (*Mehalev*) program, which was subsequently replaced by the “Lights to Employment” (*Orot leta 'asuka*) program, but was terminated at the end of April 2010. This

was a standard program in the West for encouraging employment. Israel's experience with such programs was short in duration and limited in scope. The follow-up study of the Brookdale Institute and the National Insurance Institute in July 2009 indicated that the Lights to Employment program had some achievements; particularly in the Arab sector, it proved successful in the placement of single men. Various bodies were critical of the program on the grounds of inefficient implementation, misrepresentation of the incentives at the disposal of the private operators, fictitious implementation, lack of perseverance on the part of the workers, and other factors. Some of these distortions were rectified during the transition to the Lights to Employment program.

3. Negative income tax/income grant—Negative income tax was put into effect in Israel beginning in 2008 in areas in which the Lights to Employment program was implemented, with the intention of expanding it to cover the entire country. If applied at a sufficient level, this tool could encourage participation in the workforce.
4. Subsidizing education—A major key to improving the economic condition of the Arabs in Israel lies in the education system. Primary and secondary education as well as higher education are significant factors when it comes to performance on the labor market, in determining participation in the workforce, the level of the occupation achieved, the productivity of the work, and so forth. As a result, increasing the investment in the education system in the Arab sector is an important step. According to the data, the investment thus far has been low, resulting in a run-down infrastructure, poor performance, and extensive phenomena of non-participation and high dropout rates. While the formal level of education appears to be higher than the “effective” level, raising the effective level of education will improve the skills and productiveness, which will increase the production and wages of Arab employees. It will also assist in expanding the distribution of jobs for men across different sectors and occupations. This field could benefit from different policy measures. Actions can be taken to augment the financial resources at all levels of education, with an emphasis on substantial investment at the preschool and elementary-school levels. In addition to increasing the resources allocated to the Arab sector, it is also possible to expand integration with the Jewish population, which will contribute to more

successful assimilation of the Arab sector into the labor market. This can be accomplished through meetings between students and teachers and by incorporating Jewish teachers into the Arab education system and Arab teachers into the Jewish one. Such measures could serve to reduce cultural obstacles and prejudices in both sectors.

5. Professional training and employment guidance—Measures should be taken to achieve more diverse job distribution for Arab men, in order to prevent their over-concentration in labor-intensive occupations that are characterized by early retirement. Such measures include increasing the resources allocated to elementary and secondary education and to higher education, as noted above; assistance in professional retraining following retirement from labor-intensive occupations; and professional training programs designed to adapt the abilities of skilled Arab workers in Israel to better meet the needs of employers. It is reasonable to assume that Arab young men are not interested in engaging in the same occupations as their fathers, particularly in the building and agricultural sectors and in certain kinds of industry. Professional training and career retraining programs are known to be ineffective and ill advised if they are not targeted, both in terms of the population being trained and the substance of the training. Although this would appear to be an effective means in theory, it is not at all simple in practice to infuse it with substance, given the absence of professional training in Israel. It is also important to consider the need of Arab skilled workers for assistance in looking for and finding jobs. There is evidence that such individuals may have difficulties writing a resume, undergoing interviews, and other such aspects of seeking employment. Here, too, we can think in terms of establishing specialized centers, including on the micro level, such as in the spirit of the Lights to Employment centers.
6. Encouraging the employment of Israeli Arabs instead of foreign workers—Foreign and Palestinian workers constitute an alternative workforce, especially for Arab men in the building and agricultural sectors and in certain industrial centers. In the building sector, this substitution has, in practice, been made in both directions: with Israeli Arabs being pushed out during the 1990s followed by their partial return with the drop in the number of foreign and Palestinian workers in Israel over the past decade. Such a turnover can be encouraged by implementing the

government resolutions regarding foreign workers, including taxation on the employment of foreign workers; increasing the enforcement regarding the employment of illegal foreign workers; and subsidizing the employment of Arab Israelis in certain occupations or sectors.

Two committees headed by the Deputy Governor of the Bank of Israel Prof. Zvi Eckstein issued recommendations regarding foreign workers in September 2007 and January 2010. In August 2008, the government adopted the recommendations of the first committee, which called for reducing the number of foreign workers in construction to zero and limiting the number of seasonal workers in agriculture to 18,900 by 2015. A third committee headed by Prof. Eckstein more recently has worked on the issue of Palestinian workers. The committees' recommendations also included suggestions for technological changes in these sectors to make them less labor intensive and more productive. The test of the government resolutions on this issue will be in their implementation. At the time of writing, two major problems have come into focus: the substantial number of illegal foreign workers and Palestinian workers in the construction sector, and the slow implementation of the recommendations in the field of agriculture. If a technological change does indeed occur in these sectors, it can also be expected to impact Israeli Arabs. Such a change would reinforce the need for improved primary and secondary education and higher education, to ensure that the skill level of Arab workers corresponds to the changing reality.

7. Encouraging the employment of women—As noted, the employment and participation of Arab women in the labor market is low. Various measures can be taken to encourage women's employment, with each one having its own time frame. For example, "micro" policies can establish employment centers. Such centers already exist in certain localities and are run by various nonprofit organizations. These institutions can provide information, forge connections between employers and women employees, and provide transportation to work. In this way, an employment center can help overcome both the cultural obstacles and the problem of transportation, which are often intertwined. The implementation of "traditional" policy means, such as reducing the cost of going to work by subsidizing daycare centers, afternoon childcare programs, childcare professionals, and so forth, can also be applied. Incentives to work can

also be increased, by subsidizing wages, for example, through a nationwide distribution of negative income tax, in addition to an increase in negative taxation. High school academic programs also need to be created, designed to increase awareness, among both men and women, regarding workforce participation and women's rights. Incorporating the local leadership into these programs will increase their chances of success.

8. Encouraging increased access to places of employment—One major problem of Israeli Arabs in finding employment relates to their geographical concentration and transportation obstacles. The infrastructure in many Arab localities is not well developed, especially in terms of public transportation. When it is difficult to get to work, low levels of employment and workforce participation should come as no surprise, especially among women. Such difficulties, which exist both within and between Arab localities, result from a poor road infrastructure and the lack of a public transportation network. Therefore, increased physical accessibility should be encouraged by investing in a suitable transportation network and in modes of transportation to and from places of employment. In this context, in the short-term government subsidies—for potential employees, business enterprises, and transportation companies—may be effective. In the longer term, the above-mentioned network must be significantly improved in order to reduce the high costs of going to work. It should be noted that plans have recently been formulated to improve the accessibility of transportation for employment. These plans are detailed at the level of different localities and include investing in a transportation network within and between localities, in addition to increasing the subsidy of the cost of transportation; according to the plans, public transportation will reach all localities in the Arab sector within two to three years.<sup>45</sup>

The geographical concentration of Arab localities and the subsequent difficulty of reaching places of employment can be resolved by encouraging transportation to existing places of employment, as described above, as well as by investing in the creation of places of employment within existing concentrations of the Arab population. Encouraging companies to locate in areas accessible to Arabs is likely to promote their employment and the more advanced the fields in which these companies operate, the better. At the same time, however, due to the characteristics of the Arab

population, there is also a need for enterprises that are not knowledge intensive. The obstacle here is often the lack of land and the absence of a suitable physical infrastructure for the establishment of commercial enterprises. In addition, encouraging a broader geographical distribution of the population is a long-term project that would require an increase in the number of Arab localities or of the possibility of Arabs living in mixed cities, which is a complex policy for the long term.

9. Anti-discrimination legislation and measures to increase enforcement—  
Developed countries have both anti-discrimination laws and strategies to increase public awareness of discrimination, laws against it, and the rights of the individual victim of discrimination. Based on this experience, the legislation on discrimination in employment of Arabs could be expanded and the enforcement of anti-discrimination laws could be enhanced. Among other things, the following steps could be taken:
  - a. Legislation against discrimination—such as by anchoring in the law punitive measures against discriminatory employers, which would include monetary fines, revocation of licenses, and imprisonment; determining a hierarchy of punitive measures, which would take into consideration the severity of the discrimination and the employer’s past in this matter; establishing enforcement frameworks or providing incentives, which would include inspectors, prosecution authorities, and collection authorities to enforce existing or new legislation; establishing regulations for affirmative action, particularly with regard to Arab women.
  - b. Raising awareness about discrimination and the legislation against it—such as by publishing employment and wage statistics that compare Arabs and Jews; encouraging academic research on the subject and usage of its findings; advertisement and information campaigns directed at employers, for example, by publishing in the media the laws and regulations governing the issue, including the penalties for their violation; the publication of codes for employers, such as a series of steps in the selection and management regarding the employment of Arabs; and raising workers’ awareness of their rights, for example, through ad campaigns in Arab localities and the Arab media, highlighting relevant rights.

- c. Incentives for employees to oppose discrimination—such as by providing free legal aid to employees seeking to lodge complaints regarding discrimination. Such assistance could include legal guidance, investigations, and legal representation; shortening of the submission process in cases of complaints regarding discrimination; and the enactment of laws stipulating increased compensation in cases of discrimination, as determined during legal proceedings.
10. The employment of university graduates—As explained above, the Arab sector in Israel is characterized by a broad phenomenon of non-employment of academic graduates in their subject of study. A policy that would encourage better correspondence between an employee’s education and occupation would help increase both the productivity of the economy and employee satisfaction with the conditions of their employment. This may have other positive effects, such as encouraging the children of such employees to pursue higher education, the positive environmental effects of employees working in academically trained professions, earning relatively high wages, and others.

### ***The Impact of Gaps in Education***

The economic research on the labor market indicates that education—including higher education—has a significant effect on all measures: workforce participation, employment, wage level, productivity, and so forth. As a result, there is currently great interest in investing in the education of Arabs in Israel at the primary and post-primary school and higher education levels, and as well as concern for the government funds designated for this purpose. Extremely troubling findings on this subject have been published,<sup>46</sup> pointing to serious disparities in the allocation of the resources of the Ministry of Education to Arab schools—primary schools and post-primary schools alike. These gaps mean a reduced chance of fundamentally changing the conditions of Israeli Arabs in the labor market. Arabs in Israel enter the labor market after a relatively low level of investment and are therefore at a disadvantage vis-à-vis Jewish Israelis. The fact that this data relates to existing budgets is indicative that even if the allocation of resources to education in the Arab sector has improved, it can still not be regarded as sufficient.

In conclusion, the conditions faced by Arabs in the Israeli labor market remain extremely problematic. According to all standard measures (levels of

employment, unemployment, and participation, wages, and the distribution into sectors and occupations), the Arabs in Israel are at a disadvantage in comparison to the country's majority Jewish population. As demonstrated above, there are policy measures that can be implemented to address these problems.



## Chapter 3: The Reality of the Arab Education System

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The Or Commission drew attention to the critical nature of the field of education and stressed that “the state must initiate, develop, and operate programs, with an emphasis on budgets, that will close gaps in education . . .”<sup>1</sup> The Lapid Committee charged the Ministry of Education, Culture, and Sports with formulating a plan to bolster state-run preschool education in the Arab sector in order to strengthen the education system and replace private educational institutions run by non-state bodies with Israeli state educational institutions. To this end, the committee determined that the Ministry of Education, Culture, and Sports would work in coordination with the Finance Ministry to remove the budgetary obstacles that had evolved. The committee highlighted three government resolutions that met the conclusions of the Or Commission:

The first was Resolution 2467 of October 22, 2000 (“A Multi-Year Plan to Develop the Localities of the Arab Sector”). Relating to the years 2001–2003, this plan delegated the Ministry of Education, Culture, and Sports with building classrooms in elementary, secondary and nursery schools (at a cost of NIS 700 million); called for the introduction of various pedagogical programs to the Arab sector (at a cost of NIS 280 million); and mandated the establishment of technological educational tracks in high schools and post high school frameworks (at a cost of NIS 66 million).

The second was Resolution 2585 of November 5, 2000 (“The Ofek Project for Economic and Social Development” in specific localities). Pertaining to the period 2001–2003, this resolution called for the implementation of a plan for economic and social development in the localities designated for “specific treatment” (including the Bedouin town of Tel-Sheva and the mixed cities of Lod, Ramla, and Akko).

The third was Resolution 740 of August 19, 2003, which stipulated, among other things, that “within six months, the minister of education, culture, and sports will submit an all-encompassing plan for the advancement

of education in the Arab sector and deepening the values of coexistence in Israeli society” (The Lapid Committee).

Despite actions taken over the past decade in this sphere, marked gaps still remain between state-run education for the Arab population, on the one hand, and the state-run non-religious and religious education for the Jewish population on the other hand.

### **The Construction of Schools and Preschools<sup>2</sup>**

Schools in the Arab sector have over a half million students, accounting for more than one-fourth (26%) of all the pupils in Israel. Most of them come from low socioeconomic backgrounds. Over the past two decades, the education system in the Arab sector has grown far beyond the rate of natural growth as a result of reduced dropout rates in higher grades and the extension of the Compulsory Education Law to children aged three and four years olds. The construction budgets, however, have not been not adjusted accordingly. Budgetary savings, on the one hand, and planning obstacles, on the other hand—manifested primarily by a lack of available land for development within the jurisdictions of Arab municipalities—have perpetuated a chronic shortage of classrooms over the past decade, which intensified after extending the Compulsory Education Law to include children from age three.

In practice, the Arab education system has witnessed the construction of classrooms in proportion to its percentage of the population, or slightly above its share of the country’s total pupils. This allotment of classrooms, however, has met its needs in only a limited manner, as it has not provided a solution for the disparities of the past, and it has not resolved the matter of rented, non-standard (transportable) structures and spaces that were not intended to serve as classrooms, the number of which continues to grow. During the first half of the previous decade, there was even a general policy to reduce the budgeting of preschools, based on the belief that solutions could be found for them relatively easily through renting.

In March 2007, in accordance with government resolutions and within the framework of the “Five-Year Plan for the Construction of Classrooms during 2007–2011,” it was decided to fund the construction of 8,000 classrooms during this period for the entire education system, at a cost of approximately NIS 4.6 billion.<sup>3</sup> Of these, 39% or 3,120 classrooms were classified as essential for Arab education. Approximately one year later, in March 2008, a

committee headed by Dr. Shai Canaani, who was appointed by then Minister of Education Prof. Yuli Tamir, submitted its “Report of the Committee to Examine the Shortage of Classrooms in the Arab Sector for the Period 2008–2012.” According to the report, 9,236 classrooms needed to be built in the Arab sector between 2008 and 2012.

In practice, 2,608 classrooms were built as part of the five-year plan during the period 2007–2011.<sup>4</sup> The data for 2012 indicated that of the 24,475 pupils who studied in rented classrooms, 20,323 were Arabs and 4,152 were Jews (a ratio of 83% to 17%). At the end of 2011, the Arab education system had 15,573 classrooms, of which 4,502 classrooms were lacking and had to be rented outside of the school grounds; that is, approximately one-third of the classrooms in the Arab education system were rented classrooms.<sup>5</sup> The situation in preschools was similar; during the 2011–2012 school year, the Arab education system suffered a shortage of 2,026 classrooms needed for preschools, representing 61% of the total number of preschool classrooms in the Arab education system. When the Compulsory Education Law went into effect, the shortage that had already existed on the eve of the law’s implementation became even greater due to the increased number of children who entered preschool due to the new law.<sup>6</sup>

The shortage in classrooms in the Arab education system stems from the growth in the number of Arab students in recent years, due to the decrease in the dropout rates in the higher grades and the extension of the Compulsory Education Law to include three- to four-year-old children. At the same time, economizing of the budget and a shortage of available land have prevented the construction of additional schools and preschools in order to accommodate all the students.

Thus, the resources that have been invested in the physical infrastructure of the Arab education system have not met the needs that have developed during decades of discrimination and neglect. The practical meaning of the classroom shortage is increased crowding and the use of classrooms in rented structures away from school grounds, both of which are inappropriate conditions for teaching and have a detrimental impact on the quality of learning and students’ performance.

## **The Allocation of Resources of the Ministry of Education to Arab Schools**

Recently published findings point to substantial disparities between the allocation of Ministry of Education funds to Arab and Jewish elementary and secondary schools.<sup>7</sup> Analysis conducted by the *Marker* of a sampling of the budget data of the Ministry of Education for 210 secondary schools reveals distortions in the allocation of ministry funds, even though the budgeting is based on a uniform formula for all secondary schools. The assessment considered the main budget that the Education Ministry transfers to secondary schools, which reflected the cost per pupil in academic and practical courses of study in the classroom in October 2014, and revealed disparities of double-digit percentage points—and in some cases even more than 100%—in the ministry’s budget for students throughout the country. The findings were as follows:

1. all of the ten schools that received the lowest budget per pupil from the Ministry of Education were Arab schools or Bedouin schools. The school with the lowest budget per pupil was the al-Huda School in Ramla, which ranged from NIS 524 to 622 per month. Schools of the Bedouin population in southern Israel, and schools in Lod and East Jerusalem were prominent at the bottom of the list;
2. of the twenty-five schools with the lowest budget per pupil in the humanities and social sciences (*'iyuni*) track, twenty-three were Arab or Bedouin schools, and the remaining two were a girls’ religious school in Yad Binyamin and a prestigious international private school in Even Yehuda. Arab schools were not present whatsoever in the top rankings, and the first Arab school to appear on the list ranked number sixty-nine (the Carmel High School in Haifa). In many of the cities examined, Arab schools appeared at the bottom of the list in terms of the number of “hours of study” allocated by the Ministry of Education;
3. according to the Ministry of Education’s budgeting formula, the disparity stems, inter alia, from the budgeting method that allocates smaller budgets to schools that have lower percentages of pupils who take the matriculation exams or schools whose students do not take the Israeli matriculation exams at all (like the Arab schools in East Jerusalem). The low budget may prevent these schools from recruiting more experienced

- and professional teachers, who could raise the school's academic level resulting in a greater number of students who take the matriculation exams;
4. 66% of the schools that had the lowest budget per pupils were Arab or Bedouin (more than three times their percentage in the sample, which stood at 20%); 10% were ultra-Orthodox schools; and 22% were state schools (which accounted for approximately 52% of the sample). State-religious schools were not among the fifty schools with the lowest budget per pupil, although they accounted for 22% of the sample;
  5. the data raises additional questions regarding the budgeting equation. For example, the Ramla Lod Regional High School was budgeted NIS 1,187 per pupil per month, whereas an Arab school for engineering and the sciences in Lod, which is considered to be a high quality, groundbreaking institution, received only half this amount at NIS 680 per pupil per month. Another example is Tomashin High School in Lod, which is also designated for Arab students. Tomashin High School was awarded a budget of NIS 626 per pupil per month, while al-'Ula High School and St. George High School were also at the bottom of the ranks. Blich and Ohel Vashem high schools in Ramat Gan, which are considered to be successful schools that attract an economically well-established population, were budgeted up to NIS 980 per pupil, whereas the Gymnasia Modi'im High School in Ramat Gan, which is considered less prestigious, was allocated a smaller budget of NIS 856 per pupil. A Jewish student enrolled in the Ort school in Nazareth Illit was budgeted NIS 937, whereas an Arab student in the Ort school in Nazareth was budgeted NIS 875. Leyada High School in Jerusalem received a budget of up to NIS 1,115 per student, whereas Givat Gonen, Or Siton, and Boyar high schools, all in Jerusalem, received a budget of NIS 970–1,000 per pupil, while the high school in Shu'afat in East Jerusalem received a low budget of NIS 200 per pupil. It is also difficult to explain the disparities in the budgets awarded to the high quality state schools in Jerusalem, such as the Hebrew Gymnasia, Boyar, and Leyada;
  6. according to data of the Ministry of Education, the budget allocated for an Arab high school student from a weak economic background is 42% lower than that allocated to a Jewish student from a similar economic background. In 2012, on average, a budget of NIS 17,700 per year was allocated per Arab high school pupil as opposed to the NIS 23,400 which

the Education Ministry allocated per Jewish student, while an Arab student from a weak economic background was allocated a budget that was 22% less than that of a Jewish student from a similar economic background.

The following findings relate to elementary schools:

1. the data indicates that in 2012, the Ministry of Education allocated each elementary school pupil in the state-religious sector a yearly budget of NIS 15,300, whereas each ultra-Orthodox pupil was allocated an annual budget of NIS 14,000. In the coming years, the budgets of religious schools are expected to increase as a result of former Minister of Education Shai Piron's decision to allocate funds for the separation of boys and girls in elementary schools;
2. in contrast, students in the Arab sector were allocated an average budget of NIS 13,800, and students in the state education sector—which is the largest education sector in the country—received the lowest allocation, with an average of NIS 13,100 per student per year. Still, according to Ministry of Education data, Jewish students in elementary schools in the weakest localities are allocated much more funding than Arab students from a similar economic background;
3. students in the large Arab cities were allocated relatively low budgets. In 2012, an average pupil in Tayibe received a budget of NIS 15,500, and an average student in Tira received a budget of approximately NIS 14,000. Students in Fureidis, Baqa al-Gharbiya, Kafr Kanna, Shefa- 'Amr, Ar'ara, al-Kasom, Qalansu'a, and Rahat received lower allocations, ranging from NIS 13,000 to NIS 14,500 per pupil;
4. nonetheless, students in Arab localities received funding that was comparable to the funding received by middle class pupils as well as in localities in central Israel. For example, in 2012, the average student from Umm al-Fahm was allocated a budget of approximately NIS 15,400, which was comparable to students in Tel Aviv and Rosh Ha'ayin. Students in Beer Sheva received a slightly higher budget of approximately NIS 17,000 per student, and students in Haifa made due with a lower budget of NIS 14,800 per student, comparable to the budget for students in Holon, Kfar Saba, and Ashdod.

Also relevant to the allocation of government funds in the realm of education is the petition submitted to the Israeli High Court by the Supreme Monitoring Committee for Arab Affairs in Israel and the Monitoring Committee

for Educational Affairs, which sought to annul a government resolution from February 1998 regarding the declaration of National Priority Areas (HCG 11163/03).<sup>8</sup> The petition argued that the resolution was based on improper considerations rooted in the intention to discriminate against the Arab population. In 2006, at the end of the legal proceedings regarding the petition, which lasted approximately eight years, the High Court annulled the government resolution that had declared the National Priority Areas and granted their residents—among other things—substantial benefits in many areas, including education. The High Court accepted the petitioners' argument that the government did not have the authority to determine such a broad arrangement, which, by nature, required Knesset legislation and that the geographical consideration underlying the government's resolution discriminated against the Arab sector in realizing their rights to education, as the 500 localities that were classified as National Priority Areas included only four small Arab localities. It was decided that the government resolution violated the principle of equality and did not meet the conditions of the limitation clause (of section 8 of Basic Law: Human Dignity and Freedom) and was therefore unconstitutional.

In its ruling, the High Court found that the government's resolution suffered from various deficiencies and that in the field of education, it should be annulled within twelve months of the ruling. Even after this ruling, however, the government's discriminatory and illegal resolution remained in place for many years. The government's conduct in this context has drawn sharp criticism over the years from the High Court, which has maintained that the government did not do everything in its power to implement the ruling so that it could reduce the disparities in a reasonable amount of time. According to the court, this was a reflection of the undue freedom the respondents had allowed themselves in not implementing the court's ruling, and their view of the ruling as a recommendation that could be put into practice according to their priorities and their own convenience.<sup>9</sup>

### **Matriculation Certificate Eligibility and the Chances of Being Accepted for Academic Study**

These gaps in the physical and budgetary infrastructure contribute to the high dropout rate of Arab students from the education system in Israel. They also are reflected in the performance of Arab pupils in comparison to

Jewish ones of the same age. For example, in terms of the percentage of students entitled to matriculation certificates, a continuous increase can be observed among Jewish and Arab students alike; although both populations have shown improvement, the gap between them still remains. Among Arab students, the percentage rose from 35.5% during the 2006–2007 school year to 45.7% during the 2012–2013 school year. Although significant, these figures were still lower than the data regarding Jewish students in 1996–1997, when 59.1% were entitled to a matriculation certificate. In comparison to data for the 2012–2013 school year, the disparities increased, with 72.2% of all Jewish students entitled to a matriculation certificate, in comparison to a state-wide average of 53.4%.<sup>10</sup> Students in the Arab education system also have a high dropout rate, at 21.3% between ninth and twelfth grades, as opposed to a rate of 13.5% among Jewish students.<sup>11</sup>

Over the past decade, the percentage of college and university graduates in the Arab sector has risen from 8% among women and 10% among men to 11.2% among both Arab women and men today. Although the gap in higher education between men and women in the Arab sector has been closed, this figure represents only half the percentage of college or university graduates from the Jewish sector, which stands at 27.1%. A report issued by the Council for Higher Education in 2012, which surveyed the state of education in Arab society in Israel, shows that whereas almost half (44%) of the Jewish students in any given age group meet the minimal requirements for university acceptance, this is true for only 22% of Arab students. Moreover, of those who apply to study in institutions of higher education, 32% of Arab applicants are not accepted, compared to only 19% of Jewish applicants. As a result, the percentage of Jews beginning academic study in an average year is 52%, compared to only 21% among the Arab population.<sup>12</sup> The percentage of Arab college and university graduates with advanced degrees is significantly lower than the percentage of Jews with advanced degrees: 82% of all Arab college and university graduates have a bachelor's degree, 16% have a master's degree, and less than 2% have a doctorate compared to the figures for the Jewish population at 62.5%, 34%, and 3.5% respectively.<sup>13</sup>

According to the researcher Michal Belikoff of Sikkuy, closing the gaps in the Arab education system requires clear policy of the Ministry of Education and sufficient financial resources. The Ministry of Education is responsible

for mapping the disparities in the physical infrastructure between the Jewish and Arab education systems, formulating a plan of action, and allocating the required budget in order to meet the pressing needs of the Arab education system within the framework of a new five-year plan. Without the commitment and full responsibility of the Ministry of Education and the government as a whole, Belinkoff estimates that these disparities will continue to exist and may even widen, leaving the Arab education system behind. If this happens, the Ministry of Education will have failed to fulfill its fundamental role of ensuring and facilitating the right to education for all students in the country under reasonable conditions and without discrimination.

### **“Learning About the Other Week” and “Tolerance Day”**

The Or Commission highlighted the need to know the other, to respect their basic rights, and to give public expression to the common denominator that is shared by the entire population by means of state events and symbols with which all citizens can identify. The Lapid Committee recommended implementing a “Learning about the Other Week” and a “Tolerance Day.” The Or Commission emphasized that it was imperative “to strive to take active steps to ensure the peaceful coexistence of Jews and Arabs in this country . . . Jews and Arabs living alongside one another is a fact of life, leaving the two sides with only one practical option: coexistence with mutual respect . . . coexistence presents challenges that are not easy for either side. It obliges each side to listen to the other, understand its sensitivities, and respect its basic rights.”<sup>14</sup>

In this context, the Lapid Committee wrote that “the government views favorably a joint educational effort for all citizens of the state to get to know the other.” A “Learning about the Other Week,” it explained, would be devoted to “teaching the youth about the characteristics of the different sectors and ethnic groups in Israeli society, with an emphasis on the differences in customs, culture, language, and so forth, on the one hand, and on equality and citizenship as Israelis on the other hand . . . With regard to ethnic groups, the Ministry of Education, Culture, and Sports, and the Ministry of Immigrant Absorption shall formulate a plan to implement a ‘Learning about the Other Week’ to express the idea of coexistence with mutual dignity.” According to the committee, the proposed week would have four components: (1) study—in all educational systems, a full day would be devoted to learning

about the culture of the different sectors; (2) encounters—one day would be devoted to encounters between schools from different sectors; (3) media coverage—efforts would be made to ensure media coverage of the idea of “learning about the other” in both Hebrew and Arabic; and (4) outdoor events, including the presentation of the culture and customs of the different ethnic groups.

The committee stressed that the intention of the initiative was “to present an ethnic, religious, national, and cultural mosaic reflecting the uniqueness of each sector under the single roof of a pluralistic Israel, with an emphasis on mutual tolerance.” Implementing the week with all four of its components, the committee explained, would “enable many citizens, Jews and Arabs (and Bedouin, Druze, and Circassians) alike, to learn about the ‘other’ from many different angles, not only theoretically, in the classroom, but also in an unmediated and first-hand manner.” According to the committee, “the key to achieving coexistence with mutual dignity lies primarily in the field of education. Many of the negative phenomena that we will attempt to uproot can be dealt with first and foremost by educational institutions. Education in itself, however, is not enough. The combination of the first-hand encounter, accompanied by and interwoven with learning about the other and their way of life, is the appropriate means of achieving this goal.”<sup>15</sup> In its recommendations, the Or Commission stated that “perhaps the time has come to also give expression in public life to the common denominator of the entire population by adding state events and symbols with which all citizens can identify. It is fitting to find ways of strengthening Arab citizens’ sense of belonging to the state without doing injury to their sense of belonging to their culture and their community.”<sup>16</sup> “During the initial and formative years of Israel’s statehood,” the commission continued

it was accepted in principle that the state would not aspire to assimilate the Arab minority into majority Jewish society but rather would enable it to maintain separate systems of culture, education, and religion. This choice . . . was comfortable for both sides. The Jews regarded the fostering of unique Jewish culture as the very purpose of the state, and the Arabs, from their part, regarded the preservation of their separate identity as a national mission of supreme importance. The former did not want to assimilate the latter, and the latter did not want to be assimilated. Over the years,

the Arab population and its leaders have raised different claims regarding the status of Arab culture and Arab symbols in the state.

For example, the leaders of the country's Arab population have claimed that "the state holidays that were adopted were all related to Jewish-Zionist substance and that not even one reflected substance that was shared by both sectors."<sup>17</sup>

In addressing this issue, the Lapid Committee wrote that

the government views favorably observing one day during the year (on a permanent basis) that will give expression to the elements of civil partnership and the multiculturalism of all elements of Israeli society, and that will increase tolerance and solidarity among all the sectors of the State of Israel. To advance this idea, the Ministerial Committee for Ceremonies and Symbols will appoint a public committee charged with proposing the date on the civil calendar as well as the substance and ceremonial elements to be marked by this day. The Ministry of Education, Culture, and Sports will observe this day during civics lessons and in any other appropriate framework. The recommendations of the public committee will be presented for discussion and approval by the Ministerial Committee for Ceremonies and Symbols, which will submit them to the government for approval.

The committee proposed "establishing a public committee with the role of imbuing this special day with concrete substance, with shared and unifying state character, to sanctify solidarity and tolerance among the sectors, which, despite the differences between them, are committed to a shared life of harmony, brotherhood, and peace." The goal of this "day of tolerance," the committee noted, would be "to increase public awareness regarding the multiculturalism of members of the different ethnic, religious, and national groups in Israel. The day will be marked by ceremonies, and state ceremonies will be attended by state leaders who will emphasize Israeli society's commitment to coexistence, dialogue, and inter-sectoral discourse. On this day, it is proposed that the speaker of the Knesset devote a special session to the subject of inter-sectoral solidarity and tolerance." The committee also pointed out that such a day is observed in a number of other countries around the world. For example, Australia observes Harmony Day on March 21 as part of an initiative to live in harmony. In Singapore, Racial Harmony

Day highlights the Singaporean society's commitment to the collection of cultures that make up the nation and is observed on July 21, marking the day in 1964 when racially-motivated riots broke out in the country.

What practical action was taken in these directions? A government resolution in 2005 determined that "Learning about the Other Week: The Israel Mosaic" would be devoted to education about the attributes of different sectors and ethnic groups within Israeli society, by emphasizing their different customs, cultures, languages, and so forth, on the one hand, and their equality as citizens of Israel, on the other hand. The Ministry of Education was charged with formulating a plan to implement "Learning about the Other Week" to express the idea of a shared existence based on mutual dignity and decided that the week in question would be March 16–22, 2005.

A steering committee led by Prof. Yaakov Katz, chairman of the ministry's Pedagogical Secretariat, and composed of representatives of the Ministry of Education's Division for Arab Education and Division for Druze Education, the Shenhar-Kremnitzer Unit for Civic Education and Shared Living, the Pedagogical Administration, and the Society and Youth Administration produced a set of study materials for all age groups in both Hebrew and Arabic. The materials for the different units of study were accompanied by a CD, promotional posters, and a special issue of the bimonthly publication *Panim Lekhan Ulekhan*. In addition, the Society and Youth Administration conducted meetings with students in different schools throughout the week.<sup>18</sup> After one year, however, the program was abandoned.

In August 2008, Minister of Education Prof. Yuli Tamir appointed a public committee to propose an all-encompassing educational policy for the Israeli education system about the subject of shared living among Jewish and Arab citizens of Israel. The committee began working in September 2008 and submitted its conclusions and recommendations to the minister in January 2009.<sup>19</sup> The authors of the report presented the Ministry of Education with an educational vision, set specific goals, drew up a policy plan, and provided detailed recommendations for implementation. Among other things, they called on the Ministry of Education to make education toward shared living the focus of its work from kindergarten through twelfth grade; render it an inseparable part of all curricula in all relevant subjects (including history, geography, civics, literature, and sociology); and to allocate an annual budget of NIS 10 million to its funding. Education Minister Tamir, who received the

report during her final days in office, adopted its recommendations, but soon after, her successor Gideon Sa'ar decided to suspend its implementation.<sup>20</sup>

In 2013, the Ministry of Justice, in conjunction with the Ministry of Education, drafted a new educational program entitled “The Prevention of Racism, Violence, and Incitement.” The program drew attention to International Tolerance Week and adopted the goal of “assimilating a discourse based on the values of love of one’s fellow man, acceptance of the other, tolerance, and mutual responsibility.”<sup>21</sup> In this way, the Ministry of Education, in practice, combined “Learning about the Other Week” and “Tolerance Day,” with the activities occurring around International Tolerance Day, beginning on November 16 of each year.<sup>22</sup>

The Ministry of Education implemented the program in 2014, under the name “From Tolerance to Shared Living and the Prevention of Racism.” As in 2013, the program was applied to all sectors and age groups throughout the Israeli education system and with the teaching staff who worked with them. The program’s basic premise was consistent with the spirit of the Lapid Committee’s conclusion regarding the need for “systematic and in-depth education toward the values of tolerance and the respect for and safeguarding of human rights as the basis for shared living and the prevention of racism in Israeli society.”<sup>23</sup> The program placed education for tolerance, the prevention of racism, and shared living as a central aim of the education system, resulting in the systematic, coordinated and synergetic integration of all the existing programs on the topic within the school system. It also created structured processes of meetings between officials from the pedagogical staff in the different sectors and encouraged social involvement and activity on the subject.

Still, the program’s implementation has differed somewhat from the conclusions articulated by the Or Commission and the recommendations of the Lapid Committee. The program’s aims, as delineated by the instructions of the Ministry of Education, are as follows:

1. To engage with the issues of personal and group identity and cultivation of a shared Israeli civic identity
2. To develop a commitment to shared living and the prevention of racism among pupils from all the sectors
3. To raise awareness of and develop opposition to and a desire to work against acts of incitement and racism

4. To bolster humanistic and Jewish values of caring, empathy, and respect of others, as well as a commitment to the democratic values of tolerance and freedom of expression
5. To cultivate an ability for respectful discourse and dialogue among educators and students from different sectors.

These goals serve to expand the program's focus to include acts of incitement and racism in the broad sense of the word, and not just to bridge the gap between Arab and Jewish society. Based on these goals, every school is supposed to emphasize the issues it regards as important; On this basis, a school that ascribes importance to bridging the gap and deepening the connection between Arab and Jewish society in Israel can initiate activities in the spirit of the program and receive the support of the Ministry of Education in doing so, whereas a school that does not regard it as urgent to engage in this issue can draw on the goals to develop activities dealing with "personal and group identity and cultivation of an Israeli civic identity" and "bolstering humanistic and Jewish values," and still be considered to have fulfilled the ministry's requirements and furthering the goals of the yearly program.

Although it is still too early to assess the results of "The Other Is Me" program, as the activity began only in 2013, it appears that the Ministry of Education's work thus far regarding the themes of accepting the other and instilling values of tolerance in Israel's young generation has not reflected the spirit of the recommendations of the Or Commission and the Lapid Committee. The program implemented has failed to address the Jewish-Arab divide as a subject of national importance, and, although the lesson plans deal with content pertaining to the subject of "Bedouin heritage" and "tolerance in Islam," these lessons were intended for use in Arab educational institutions and not in Jewish schools. In their article "Education toward Democratic Values and Using Education to Fight Racism," Prof. Mordechai Kremnitzer and Dr. Amir Fuchs assert that the universal concept of human equality as well as the perception of Arab citizens as citizens with equal rights have been continually eroded. According to Kremnitzer and Fuchs, it will take a special effort to rectify the situation, given the aggregate content that emphasizes the state's Jewish character to all grades in the material studied, as well as the ceremonies, holidays, and commemorative days observed. Depending on the teachers and the material being taught, this aspect of the

state's character has the potential to take the form of extreme particularism, nationalism, condescension, and hatred for the other.<sup>24</sup>

Kremnitzer and Fuchs also maintain that as long as the particular and the unique are emphasized, the general and the shared must also be highlighted in order to prevent the civic and democratic system from seriously malfunctioning. They call for recognizing the fact that Israel's existence as a nation-state does not contradict its parallel and concurrent existence as a state of all its citizens. After all, if it is not a state of all its citizens, it is not democratic. If the state's democratic nature is not regarded as a fundamental, existential, essential, and critical value, then Israel's democracy cannot be ensured. Whether or not this is the case is necessarily dependent on the extent of the commitment of its citizens to the concept of democracy.<sup>25</sup>

Kremnitzer and Fuchs maintain that the education system must internalize the unique status of the Arabs of Israel as citizens of the state with equal rights, who contribute to building and developing the country and, according to the best data and assessments compiled by the country's security experts, do not pose any threat to state security. To prevent the demonization of the Arabs, which thwarts every democratic educational effort, there is no other option but to fairly present the Palestinian Arab narrative and to critically engage with it.<sup>26</sup>

### **Recommendations for Changing the Reality of the Arab Education System<sup>27</sup>**

Changing the Arab education system requires full equality by implementing affirmative action and allocating resources to close the gaps in building, infrastructure, funding, and staff for pedagogical needs in the Arab sector, such as the development of Arabic language curricula and text books. Moreover, the Arab education system must be allowed to adapt the content of its textbooks and the different curricula to reflect the national-cultural identity, history, and heritage of Palestinian Arab society.

The aims of Arabic education in Israel should be anchored in the State Education Law, as is the case for Jewish education. In addition, Arab professionals and public representatives should be made full partners in determining pedagogical policy and in managing Arab education. To this end, it may be worthwhile to consider establishing an Arab education administration

with a pedagogical secretariat to work in coordination with the Ministry of Education's general Pedagogical Secretariat.<sup>28</sup>

Improving the quality of teaching and learning in the Arab education system is needed in order to increase the achievements of its pupils at all age levels, to raise the chances of its high school graduates to enter and succeed in institutions of higher education, and to help students who do not continue on to higher education to find their place in the job market.

## Chapter 4: **The Development of Arab Communities and Municipalities**

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### **A Master Plan and Outline Plans for Arab Settlements**

#### *The Or Commission*

One major obstacle hindering residential construction within the jurisdiction of Arab communities has been the absence of outline plans and master plans . . . In many cases, local councils were not established, and the localities in question have been administered under the auspices of regional councils run by Jews. As a result, decisions pertaining to the development of these Arab localities have not shown sufficient sensitivity to the needs of the Arab population.<sup>1</sup>

Today, approximately half of the Arab communities in Israel still have no authorized master plan facilitating the expansion of their built areas, and many lack authorized outline plans. As a result, the owners of private land are not permitted to build legally. This has led to the widespread phenomenon of building without permits and disrespect for the rule of law . . . During the first fifty years of Israeli statehood, the country's Arab population increased approximately sevenfold. At the same time, the land on which it is permissible to engage in residential construction in the Arab sector has remained almost unchanged.<sup>2</sup>

#### *The Lapid Committee*

To charge the minister of the interior and the Israel Lands Administration, in cooperation with the Arab municipalities, with drawing up, as soon as possible, outline plans for Arab communities, for which such plans have yet to be drawn up, and with completing outline plans that have already been started, making consistent use of the principle of high density building and the marketing of land in

accordance with prevailing needs and suitable planning principles; to designate some of the land supplements for development for the purpose of establishing local and regional employment areas, including the creation of joint Jewish-Arab industrial areas (industrial parks); to denounce the phenomenon of illegal building in the Arab sector, as in all other sectors, and to take decisive action against it using all means under the law. Explanatory note—The shortage of land is exacerbated by the custom of building single-family homes, prevalent in the Arab sector, and by the refusal of clans to sell, transfer, or enter into transactions pertaining to land registered in its name. It is recommended that the government take action to authorize master and outline plans for all Arab communities, in accordance with the principle of making use of most of the land for high density building. The possibility of marketing additional land in accordance with criteria includes, among other things, the size of the community, the demand for land for development, and the current housing shortage. Expanding the realm of legal building and development to the extent proposed will result in a meaningful solution to the problem of disorderly building in the recognized Arab communities. Some of this additional land should be designated for employment and industry needs, including joint industrial zones. The establishment of such areas will help improve the socioeconomic situation in the Arab communities, reduce unemployment, generate a dynamic of economic activity, and expand the tax base of the municipalities suffering from severe budgetary problems. Given the imminent importance of the issue, the utmost effort must be made to complete the master plans and outline plans in the Arab sector as soon as possible. The Ministry of the Interior, which is responsible for the issue, is charged with completing the implementation of the plan prior to the end of 2005 (the date set by the “Clusters” [*Eshkolot*] Plan).

Israel is home to 1,187 *yishuvim* or communities, of which 134 are Arab, whose jurisdictions cover only 2.5% of the country’s land. Since the establishment of the state, 700 Jewish communities have been established in Israel, but no new Arab ones have been created. Out of all the country’s Arab communities, 112 are grouped into seventy-seven local municipalities; twenty-five are located within the jurisdictions of Jewish regional councils; and two are located within the jurisdiction of Jewish local councils (the town

of Tarshiha, which is located within the jurisdiction of the Ma'alot-Tarshiha municipality and the village of 'Akbara, which is located in the jurisdiction of the city municipality of Safed).<sup>3</sup>

Since the establishment of the state, the Arab communities have undergone processes of change and transition from rural to urban. These changes, however, were not the product of the appropriate planning process, as was the case in the Jewish communities. As a result, most Arab communities lack infrastructure with the capacity to address their populations' needs in a variety of realms, such as employment, leisure, and, of course, housing. This reality was the result of a number of factors, some local—such as the difficulties of the Arab municipalities in functioning and the structure of land ownership in the Arab sector, which lies primarily in private hands—while others have been the product of a government policy of neglect.

The Or Commission identified planning problems, emphasizing especially the absence of outline plans in Arab communities, as a major factor leading to the outbreak of the violent events of October 2000. The commission concluded that this was one component of the broader problem of discrimination against and deprivation of the Arab population, which further intensified the civil plight of the Arab sector. In this context, it is difficult to ignore the data presented by the Or Commission about the lack of correspondence between the growth of the Arab population—the rate of which has increased fiftyfold since the establishment of the state—and the scope of the land designated for residential use, which has remained unchanged.<sup>4</sup>

The Or Commission also pointed to the outline plans as contributing to the hardships of the population and, therefore, causing feelings of bitterness and anger toward the authorities. For example, the report drew attention to the unreasonable delay in drawing up and updating the plans as well as to the prominent gaps in the planning processes in the Arab sector. Among other things, the report indicated the Arab population's poor representation in the bureaucratic apparatus of the various planning committees, which has resulted in unreasonable delays in the drawing up of plans and has ultimately created a situation in which many Arab municipalities do not possess any outline plans whatsoever.<sup>5</sup>

In this context, it is important to understand that the Or Commission's emphasis on the outline plans is no coincidence. In actuality, an outline plan with statutory status determines the planning policy of the locality by defining

land use classifications and designating the manner in which land can be used. The plan is designed primarily to ensure that the local municipality will engage in land planning for the good of the population, in terms of allocating land for residential and commercial areas, public buildings, open areas, and other such public uses. The absence of outline plans has led to a shortage of land for residential construction and the inability to develop the infrastructure of the local municipality, which has resulted not only in a declining quality of life for local residents but also in illegal building.

The effort to promote outline plans in Arab communities began already before the events of October 2000 and prior to the publication of the conclusions of the Or Commission in March 2003 and their subsequent translation into practical action by the Lapid Committee in June 2004. Indeed, at the beginning of 2000, the Ministry of Interior's Planning Administration had embarked upon an extensive project aimed at advancing the formulation of outline plans in the non-Jewish sector. This measure was consistent with a number of resolutions aimed at promoting planning in Arab communities that were approved by the government between November 1998 and March 2000 and received additional approval from a decision by the Ministerial Committee on the Arab Sector in January 2000.

The initiative was led by the Ministry of the Interior in cooperation with a number of other bodies, including the Israel Lands Administration, the Ministry of Construction and Housing, the Prime Minister's Office, and, of course, the leaders of the relevant municipalities. Its goal was defined as follows: "To improve the quality of life of the communities in the non-Jewish sector, including a significant addition of land for housing, public buildings, employment areas, and open areas, and a suitable level of services, in response to the long term needs of the localities."<sup>6</sup> The plan included approximately thirty Arab communities in central and northern Israel and was later expanded to include sixty-six in total. In addition, master plans were drawn up for thirteen isolated localities, as was a regional master plan for the Wadi Ara region, which included eleven additional communities as well as the open space between them.

The Or Commission's conclusions of March 2003 gave additional validity to the government project of promoting outline plans for the Arab sector. The Lapid Committee, whose recommendations were issued one year later, called to accelerate the timetable for drawing up the outline plans for the

country's Arab communities by the year 2005 and in doing so also provided a tailwind for the government effort on the issue. Fifteen years after the beginning of the project (which was supposed to last only a few years), some progress has been made in advancing the formulation of outline plans for Arab communities. For example, as of 2012, twenty-eight outline plans had been approved for thirty-six Arab localities (57%) and fifteen additional plans for another eighteen communities had reached the stages of being officially deposited and subject to the discussion of objections. The other plans are still at the stage of preliminary planning. Beyond the initiative of the Interior Ministry, local outline plans for nine other Arab localities have made progress, and eight of these have been approved and published.<sup>7</sup>

The progress achieved in the formulation of outline plans, however, has not been consistent with the recommendations of the Lapid Committee, particularly with the committee's expectation to accelerate the timetable. Moreover, no progress whatsoever has been made on the outline plans in more than forty communities, indicating that the project has only been partially implemented, and not only in terms of meeting its timetable. In this context, the timetables for the formulation of outline plans for Arab localities were not shortened and remained at seventy months—approximately six years—as opposed to the twenty-six months or approximately two years that are stipulated by law.

Even so, this marks the most significant institutional measure taken in this direction since the establishment of the state.<sup>8</sup> State institutions and authorities have never concurrently worked to advance such a large number of outline plans, of which, as we have seen, more than thirty have already been approved. In addition, the discourse of urban planning and the concept of planning in general have gained a foothold and a central position in public Arab discourse, and a significant number of Arab professionals, including architects and engineers, have taken part in the planning discussions.

Although the work done thus far reveals progress that can be measured quantitatively, there have been fewer practical outcomes that address the hardships of the Arab sector due to the lack of planning. For example, the outline plans that have been approved thus far have done nothing to normalize the status of thousands of residential units that have been built without permits in Arab communities. They also have not addressed the issue of employment areas, which are the key to the economic development

of the Arab communities both on the individual level and in terms of the local municipality's ability to increase its income by collecting property tax. The issue of expanding the jurisdictions of the Arab municipalities and the communities has also not been dealt with, despite being key to increasing the land reserves of Arab communities, which would facilitate residential building and regional development. Furthermore, expected demographic changes that are not based on natural growth—such as local migration—have not been taken into account, and therefore the outline plans meet the short-term needs of the residents but not the medium and long term.<sup>9</sup>

From this perspective, although the government's efforts seem to have advanced on an official level, its actual progress has been limited, and, for the most part, the government has refrained from dealing with a number of serious obstacles that have hindered the development of the Arab communities, which the outline plans did not take into account. Some are internal obstacles pertaining to the Arab sector itself and others are external, relating to state authorities and government planning policy. We will present and discuss these internal and external obstacles below.

### ***Internal Obstacles***

*The lack of resources for implementing the outline plans*—Although outline plans are the key to the development of the Arab localities, they provide only a general framework for local development, do not go into the planning details, and therefore are insufficient. The major challenge, then, is not only the formulation of the outline plans but also translating them into action, as the plans themselves do not contain the detailed instructions required for providing building permits. This depends on two things. One is the residents themselves, who are the private owners of a significant portion of the land and have no interest in advancing construction on their land (see more on this issue below). The other is the local municipality's allocation of funding for the implementation of plans and municipal development projects when Arab municipalities tend to have low income, which limits their budgets and ability to leverage the outline plans to advance local municipal development.

*The absence of professional planning elements*—In most Arab communities, the municipal engineer and/or the chairman of the local council himself supervises the project of formulating the outline plans, due to the absence of planning departments and divisions within the local municipalities. This

exposes the planning processes to political interests at the discretion of the party supervising the project, while marginalizing the broader issues that pertain to the public good and the quality of life of all residents within the municipal boundaries.<sup>10</sup> The Arabs' insufficient representation in the Israeli planning institutions should also be considered.<sup>11</sup> Out of all the Arab municipalities, only five have a local planning and building council (Nazareth, Tayibe, Tira, Rahat, and Abu Basma), and the lack of representation of Arab municipalities at the district committee level neutralizes their ability to influence the advancement of planning and building. Of the six district planning councils, which have a combined membership of 108 representatives, only five are Arab. Similarly, out of the thirty-two representatives on the National Council for Planning and Building, only two are Arab.

*Private land ownership in Arab localities*—Most of the land in Arab localities is privately owned. In the Arab sector, land is perceived as having the utmost family value that should neither be bought nor sold but rather should be passed down from one generation to the next, as part of an intergenerational obligation; moreover, the distribution of plots of land reflects power relations between families and clans. As a result, a tension has emerged between the mode of land ownership—which considers internal, communal, social, and familial factors—and modern public planning, which acknowledges the needs of the individual first and foremost. In practice, private land ownership hinders the allocation of land for public purposes, due to the opposition of the land owners who regard land primarily as a family-community resource, and it also makes it difficult for planning authorities to formulate detailed plans that can translate the skeletal outline plans into building practices and residential units. In actuality, this neutralizes the municipality's ability to meet the public's growing housing needs, particularly in the case of residents who do not own their own land.<sup>12</sup>

### ***External Obstacles***

*The jurisdiction of Arab municipalities*—The jurisdiction of the Arab municipalities has not changed since 1948. Together, these municipalities enjoy jurisdiction over a combined area of 2.5% of the country's total land area, despite the fact that over the past seven decades, Israel's Arab population has increased more than sevenfold. Although some municipalities have submitted requests over the years to expand their jurisdiction, the

process required is long and complicated and, at the substantive level, any reference to the practical needs of municipalities for the benefit of the Arab population involves broader considerations relating to the national question of ownership of the land. Some Arabs maintain that it is also the intentional policy of the Israeli authorities and the Israel Lands Administration to prevent the development of the Arab sector by imposing structural limitations on the ability of Arab communities to expand their jurisdiction, as well as of the Arab population to establish new communities. Moreover, a significant portion of the Arab-owned land in Israel is located under the jurisdiction of adjacent regional councils, such as the Jezreel Valley Regional Council. This detrimentally impacts their territorial continuity and their ability to develop this land for the benefit of the Arab population. In the outline plans that have been approved, only twelve localities have been allowed to expand their jurisdiction. This has been the primary obstacle in the ability of Arab municipalities to allocate land for residential purposes and has forced the municipalities to contend anew with the thorny issue of private land ownership, which in itself hinders the development of Arab localities.<sup>13</sup>

*Lack of a remedy for the problem of illegal building*—The new outline plans have not provided clear answers regarding structures that were built in Arab communities without building permits. 170 existing structures remain unauthorized in more than thirty localities, and another 400 residential units remain outside the outline plans that have been updated and submitted to the planning institutions but have yet to be officially deposited. These twenty plans contain approximately 2,000 residential units that were built within the borders of the Arab municipalities without a permit and that have not been issued legal status. Thirty-two Arab localities contain 2,570 residential units that were built without permit. In some communities, such as Qalansu‘a, such units account for approximately 10% of the overall number of residential units. This makes it extremely difficult for the municipality to contend not only internally with the phenomenon of illegal building but also with the state authorities that demand that the Arab communities deal with the illegal building.<sup>14</sup>

*The lack of a solution for systemic development within the Arab communities*—Of the more than thirty communities with approved outline plans, only five have addressed issues such as developing employment, transportation, tourism, and other areas.<sup>15</sup> In other words, although the

outline plans provide a legal planning solution for the current reality in which outline plans are lacking, they did not look systematically at the initiative to approve the outline plans and did not take into account that this process must be intrinsically linked to other complementary measures that address additional public interests of the Arab sector. These interests, for example, include developing the transportation infrastructure and employment that could improve the quality of life of the residents and are inseparable from the concept of municipal planning, which is not limited to dry definitions of land use designations.

In sum, the picture that emerges reveals progress in implementing the conclusions of the Or Commission and the recommendations of the Lapid Committee on the issue of outline plans. The progress made, however, has been primarily at the formal level of drawing up outline plans for the Arab sector, although in this area too, the Interior Ministry's initiative at the beginning of 2000 onward has by no means been fully implemented, as determined by the state comptroller's report on the national housing crisis, which was published in February 2015:

Despite the improvement in the situation, there are many municipalities in which a valid, updated outline plan is not in force, and the process of formulating and approving such plans often takes an extended period of time, in some cases more than fifteen years.<sup>16</sup> The Planning Administration and the Northern District Committee must take immediate action to advance outline plans in communities in which approved outline plans are not in force and to advance new plans in localities in which old plans are in force. The absence of local outline plans is injurious to the rights of the residents of these communities. It may indirectly encourage illegal construction, reduce public land, and impact the development of these localities in a manner that is inconsistent with the policy of the local and regional planning policy. Their absence may also make the process of approving detailed plans—which are a precondition for issuing building permits—more difficult, thus exacerbating the housing shortage in the Arab sector.<sup>17</sup>

Nonetheless, the significant lack of progress in advancing outline plans does not only relate to the formal mechanism of formulating and approving the plans, which the comptroller's report addressed, but also to the content of the

plans themselves. They reveal that serious obstacles still exist, for example, in the realm of land allocation and in expanding the jurisdiction of Arab communities. These obstacles hinder transforming the outline plans and the formal progress made in this area into action that will serve the interests of the Arab population in housing, employment, entertainment, and other central spheres of life. From this perspective, there appears to be a substantial gap between the spirit of the recommendations of the Or Commission and the Lapid Committee and the reality on the ground.

## **The Land Issue**

### ***The Or Commission***

The Arab sector has legitimate needs stemming, among other things, from natural growth. The state must allocate it land according to egalitarian models and principles, as it does in other sectors . . . Suitable planning arrangements should be decided upon as soon as possible to prevent the illegal building that is caused in part by the lack of authorized plans that facilitate the receipt of building permits.<sup>18</sup>

### ***The Lapid Committee***

The following resolution can be viewed as containing a remedy that addresses the conclusions of the Or Commission. Section 1 of Government Resolution 740 (Arab/12) of August 19, 2003, called for “charging the following parties with the task of submitting to the Ministerial Committee on the Non-Jewish Sector, within six months and by means of the Council for National Security, plans to address the main problems of the Arab sector in Israel, including specification of the bodies responsible for implementation, an executive mechanism, a budget, and a timeframe.”

Section 1(c) calls for “the examination, among other things, of problems relating to the issue of building, housing, and planning in the Arab sector, including obstructions hindering full implementation of the standing plans for resolving them, and the submission of recommendations regarding ways of solving the problems and removing the obstacles.” The minister of the interior shall submit

recommendations for solving problems in the realms of planning, building and housing.

The status of implementation of the above resolution is as follows: all seventy-three localities have been included in the “Clusters” (*Eshkolot*) Plan—an umbrella plan for master planning and outline planning—aimed at facilitating the establishment of a borders committee to demarcate borders for each and every locality and to submit its recommendations to the interior minister. Estimated date of completion: December 2005 (see the resolution in section 3 above regarding the Arab sector and outline plans for Arab communities).

The housing shortage in the Arab sector is nothing new. It is a long-standing, highly charged issue that touches on one of the most sensitive nerves in the Palestinian-Israeli conflict, the control over geographical space, and thus directly affects the already charged relations between the Arab population and state institutions. The struggle began at the end of the 1940s, with the transfer of control of the land of Palestinian refugees (or “absentees,” to use the terminology of the Absentee Property Law of 1950) to the state. It continued with the mass land expropriations carried out by the state during the 1950s–1970s, followed by the establishment of new Jewish settlements—such as Upper Nazareth and Karmiel—as part of the “Galilee Development Plan” of 1975, which Arab discourse has referred to as the “Judaization of the Galilee.”

The violent events of Land Day, which erupted on March 30, 1976 around the state’s intention to expropriate land in the area then referred to as “Firing Zone 9,” marked a turning point in government policy on the issue of land.<sup>19</sup> Since then, the state has ceased its aggressive policy of expropriating privately owned Arab land, and state authorities have demonstrated much greater understanding of the explosive significance of the land issue with regard to the state’s relationship with its Arab population. This was not, however, the end of the struggle over control of the physical environment. First, land expropriation has continued, albeit on a lesser scale, primarily for the sake of military training grounds or the establishment of military installations, as well as for the construction of national infrastructure, as in the case of the construction of Route 6, for which approximately 1,800 dunams (approximately 445 acres) of private land were expropriated from

Arabs. As could have been expected, these expropriations sparked grievances throughout the Arab population, as reflected in late September 1998 when three days of large-scale violent protests erupted, causing the main road through Wadi Ara to be closed. The reason for the disturbances was the decision by state authorities to include 500 dunams (124 acres) of land adjacent to Umm al-Fahm in Firing Zone 107 and to restrict the entry of land owners.

Raja Khoury, director of the Arab Center for Alternative Planning, has described the government's policy since the first Land Day as a more sophisticated policy of expropriation, which, in contrast to its predecessor, is based on more indirect measures, such as limiting the jurisdictions of Arab municipalities to much smaller areas of land than actually owned by their residents. He has also pointed out that the state limits the Arab population from potentially using land by declaring it forest land, security zones, and, as noted above, by using it for national infrastructure. In his opinion, all these uses are meant to limit Arab control of land and have actually led to the encirclement of the existing Arab communities and have limited their ability to expand physically.<sup>20</sup>

From many perspectives, this characterization is not without foundation. Underlying the state's land policy since its establishment has been a conception of land as a resource to be—utilized by a number of institutions—such as the Jewish Agency, the Israel Lands Administration, and the Jewish National Fund, in order to expand Jewish settlement, primarily in frontier areas and areas with a clear Arab demographic majority, such as the Galilee and the Negev. This policy has been characterized by the Arab side as an effort to “Judaize” the space and to rid such areas of their Arab population. According to the statistics at our disposal, 96.6% of all land in Israel is currently under Jewish ownership, in contrast to the less than 4% that was Jewish-owned land on the eve of the establishment of the state in 1948. Arabs in Israel today own 700,000 dunams (approximately 173,000 acres), accounting for 3.4% of all land in the country, and this only constitutes between 12–17% of the land that was under Arab ownership (including that of the Arabs that became refugees) on the eve of the establishment of the state.<sup>21</sup> Moreover, since the establishment of the state, not a single new Arab community has been established—despite the increased percentage of the Arab population—except for fourteen Bedouin communities that were recognized by the state in northern Israel, seven Bedouin townships in the Negev, and nine other

localities that were recognized as part of the Abu Basma Regional Council. In contrast, 700 new Jewish communities have been founded since the establishment of the state.

The land issue, however, is not related only to the national component of the struggle for control over geographical space as it also has economic and sociological dimensions.<sup>22</sup> Economically, land is a resource that can affect not only the status of the Arab family but also the independence of the Arab population and its dependence on the Jewish majority, whereas its sociological dimensions relate to the quality of life of Arab citizens, municipal planning issues, and housing.

It was to these issues that the Or Commission directed its recommendations. The commission addressed the issue of land at length and noted in its concluding report that “the Arab sector has legitimate needs stemming, among other things, from natural growth. The state must allocate it land according to egalitarian models and principles, as it does in other sectors.”<sup>23</sup> But the commission went beyond this directive and also highlighted the close relationship between the shortage of land—that is, land ownership—and the ability to resolve the civic and social hardships of the Arab sector, first and foremost, the housing shortage. The commission highlighted the need for “deciding upon suitable planning arrangements as soon as possible to prevent the portion of illegal building that is caused in part by the lack of authorized plans that facilitate the receipt of building permits.”<sup>24</sup>

In other words, the land shortage, manifested in the relatively small area under the combined jurisdiction of Arab municipalities—only 3.4% of the land in the country, serving a population that accounts for approximately 18% of the total population of Israel—was identified by the Or Commission as key to resolving the serious housing shortage facing the Arab sector. Parties within Israel’s legal system also recognized the key role of this issue, as reflected, for example, in the Israeli High Court’s 1995 Ka’adan ruling. According to statistics for the year 2011 from the Arab Center for Alternative Planning, the housing crisis among Israel’s Arab population is reflected in the density statistics for Arab localities in Israel—which are among the highest in the world—especially when compared to the situation in the Jewish sector. According to these statistics, the overall density in Arab localities is 654 square meters per person, in comparison to 3,855 square meters per person in Jewish municipalities. These figures should be considered in conjunction

with the fact that between 2001 and 2011, only 8.5% of the land that the Israel Lands Administration marketed for housing needs was allocated for the needs of the country's Arab population.

Still, it is difficult to miss the intention of the members of the Or Commission to attempt to resolve the land issue by means of the outline plans, as discussed in the previous section, without issuing an explicit recommendation to the state authorities and bodies operating on its behalf to release the bottleneck as it relates to the land issue. The paradox, as presented above, is that the significant measures taken in recent years to accelerate the formulation of outline plans for Arab localities do not contend directly with the land issue, which lies at the heart of the Palestinian-Israeli conflict. In effect, this has created a structural obstacle that has made it difficult to translate the outline plans into a significant process, which includes increasing the jurisdiction of the Arab municipalities by allocating state land to the Arab public.

This circumvention is more explicitly expressed in the recommendations of the Lapid Committee Report of 2004. The report's first chapter, which addresses the committee's recommendations regarding the Arab sector, relates to the land issue as part of what it classifies as "recommendations of the Or Commission addressed by government resolutions whose implementation has not yet begun." In this context, the committee determined that Government Resolution 740 (Arab/12) of August 19, 2003 served as a remedy for conclusions of the Or Commission. The government resolution charged government agencies, including the National Security Council, with submitting a detailed plan to address the problems of the Arab sector within six months and to examine, among other things, planning, housing, and construction issues, including the obstacles that hinder the full implementation of the existing plans.<sup>25</sup>

The Lapid Committee also noted that the *Eshkolot* plan—the umbrella effort for the planning and formulation of outline plans that covered seventy-three Arab localities—had made progress in implementing the government resolutions and therefore also had applied the recommendations of the Or Commission. Still, the Lapid Committee refrained from concretely addressing the "obstacles" (as they are referred to by Government Resolution 740) that hindered the implementation of development plans in Arab localities; that is, the allocation of land to the Arab sector.

Indeed, no significant progress has been made since the Lapid Committee and the Or Commission published their conclusions regarding the allocation

of land to the Arab sector. According to the Arab Center for Alternative Planning, between 2001 and 2011, only 8.5% of the land that the Israel Lands Administration marketed for housing needs was allocated to the country's Arab population. Sikkuy, an organization that promotes civic equality between Arabs and Jews in Israel, maintained that between 2003 and 2010, despite public assurances that sufficient land would be marketed in the Arab sector for the construction of 12,555 residential units, the land actually marketed was only enough for 2,180 residential units. Moreover, in the same years, and generally since the establishment of the state, the area under the jurisdiction of Arab municipalities has not increased, even though the built-up area of these municipalities has increased sixteenfold and the population density has increased elevenfold. An updated figure published by the Higher Monitoring Committee for Arab Affairs in Israel reveals that in 2014, the Israel Lands Authority issued 1,800 tenders for the construction of residential units in Arab communities, in comparison to the allocation of approximately 38,000 tenders in Jewish communities, representing an allocation of housing solutions at a rate of less than 5% of the country's overall population.<sup>26</sup>

These and other figures are indicative of the lack of concrete action vis-à-vis land allocation for the Arab sector. The major institutional effort in this realm has been aimed at the Bedouin population in southern Israel as part of the state's efforts to resolve the issue of the "unrecognized villages." Overall, the Bedouin population in the Negev numbers approximately 206,000 residents. According to data of the Authority for the Regulation of Bedouin Settlement in the Negev, 63% of this population (approximately 120,000 people) lives in recognized and permanent communities, and approximately 70,000 Bedouin live in thirty-five unrecognized villages in the Dimona-Ber Sheva-Rahat region. The residents of these unrecognized villages account for approximately one-third of the overall Bedouin population.<sup>27</sup>

The controversy between the state and the Bedouin population revolves in part around land rights, as the Bedouin typically do not possess land ownership certificates and instead base their claims on "traditional ownership" passed down from generation to generation. Most of the land was largely grazing lands as opposed to cultivated or settled land. The residents of the "unrecognized villages/settlements," who are at the epicenter of the land

issue in the Negev, are demanding that the state recognize their ownership of approximately 180,000 dunams (44,480 acres) of land that they occupy.<sup>28</sup>

Each year, the lack of local planning in this region forces hundreds of young Bedouins to build their homes without building permits and, as a result, to pay high fines or risk demolition orders and eventually the destruction of their homes. The number of illegal structures in the unrecognized villages stands at 50,000. According to data provided by the Association for Civil Rights in Israel in 2007, the state destroyed more than 200 structures in the unrecognized villages between January and November of that year. According to the data in a report of the Knesset Research and Information Center, approximately 1,500 structures without permits are built every year in the unrecognized villages, and from 2004 to 2006, approximately 1,000 administrative and legislative demolition orders were issued against structures that had been built without a permit in the unrecognized villages.

Since the 1970s, government policy has offered the Bedouin a compromise that would allow them to retain a small portion of their land while attempting to settle them in a number of communities. The aim of this compromise was to seize as much of the land in their possession as possible and to register it in the name of the state. After failing to make progress with the Bedouin based on this unilateral proposal, the state returned to the courts and submitted counterclaims for ownership. Between 2005 and 2009, the state submitted approximately 400 such claims and emerged victorious from the legal proceedings regarding all 190 claims that the courts ultimately adjudicated. The struggle over the land entered a new phase in 2007 when the government established a committee, chaired by retired High Court Justice Eliezer Goldberg, to recommend policy for regulating Bedouin settlement in the Negev. In 2008, the committee submitted its recommendation, which was adopted by the government.

Justice Goldberg proposed a “fair compromise” that called for generous compensation of the Bedouin in land and in money, formal recognition of most of their unrecognized villages, as well as the classification of illegal structures as “gray buildings” located “within the area of a valid plan that do not interfere with the plan’s implementation.” This designation would mean that the buildings would not be demolished and would facilitate their legalization. The committee’s report also suggested paying higher compensation for land. In light of the report, Ehud Praver, director of

the Policy Planning Division of the Prime Minister's Office, was charged with formulating a plan to implement the recommendations, which was subsequently revised by Yaakov Amidror, the former national security advisor. This plan was approved by the Israeli government in September 2011 amid severe protests by the Bedouin, who went as far as to argue that the plan represented a retreat from the previous plan that Praver had offered them.

The next phase in the formulation of a plan to regulate Bedouin settlement in the Negev was undertaken by government minister Benny Begin who sought to reexamine the proposal based on an intensive dialogue with representatives of the population of the unrecognized villages. This effort resulted in the ostensibly improved Praver-Amidror plan, which was submitted to the government in January 2013 and was approved by an extremely narrow majority of the Knesset on June 23, 2013. During the discussion, Arab Knesset members defiantly tore up copies of the bill and walked out of the plenum hall. The law's enactment marked the beginning of a broad public struggle against the regulation plan, culminating in widespread demonstrations in late November 2013 at Hura Junction in the Negev, Jerusalem, and Haifa, which were referred to by their organizers as a "day of rage," and resulted in injuries to both demonstrators and police.

Overall, the recommendations of the Begin-Praver plan tried to be more generous in comparison to the previous plans. It proposed that land claimants be awarded either financial compensation or compensation in land (up to half the area claimed) and also called for paying compensation, at a rate of up to 25% of the value of the ownership claim, to Bedouin who were not currently in possession of the disputed land because the state had previously evicted them from it. With regard to regulating the villages, Begin and Praver's improved plan stipulated that unrecognized villages should be recognized whenever possible but only in designated areas within the district outline plan and in accordance with planning rules aimed at preventing the dispersion of settlements over a large area, which hinders the establishment of efficient infrastructure.

Nonetheless, the improved plan, which was formulated after an attempt to conduct a more serious dialogue with Bedouin representatives, was unable to conceal the state's intention of removing 40,000 Bedouin residents of the unrecognized villages from their land and terminating Bedouin claims to 600,000 dunams (approximately 148,000 acres). The Begin-Praver plan

continued to arouse opposition among human rights groups and officials within the Bedouin community, who claimed that the new arrangement would not recognize all the unrecognized villages and would result in the eviction of tens of thousands of Bedouin from their homes. It was also argued that the arrangement, which would award land owners only partial, insufficient compensation, was discriminatory in comparison to similar compensation arrangements that had been reached with Jewish citizens. In response, the plan's initiators maintained that only a small portion of the Bedouin population would need to relocate; that in such cases, the geographical distance of relocation would be relatively small and that in any event, the settlement would greatly improve the quality of life and civil infrastructure of the Bedouin population.

The plan, however, sparked opposition not only within the Bedouin population in the Negev—with the backing of the Higher Monitoring Committee for Arab Affairs in Israel—but also among right-wing circles in Israel, who regarded it as providing legal justification for the Bedouins' appropriation of land in the Negev. These right-wing circles argued that there was no legal basis for the recognition of the Bedouin land ownership claims. ILA officials also maintained that not enough vacant land was available to compensate the Bedouin as the plan had proposed because some land actually had been designated for the development of infrastructure, and other land was not suitable for agricultural development; for this reason, the Bedouin population would most likely reject the plan outright if offered as compensation.

In December 2013, in light of the opposition, Begin announced the shelving of the plan for regulating the status of the Bedouin in the Negev. During the time that has elapsed since, enforcement agencies have continued their efforts to contend with illegal building in the Bedouin region, alongside efforts by the establishment to reach an understanding and find solutions to the arrangements for “evacuation-compensation” measures. In January 2015, the Ministry of Agriculture, headed by Yair Shamir, published a framework for a new plan aimed at providing a solution following the shelving of the Begin-Praver plan. The ministry's plan was based on formulating comprehensive outline plans for Arab communities in the Negev and the concurrent formulation of a social-economic plan for their development.<sup>29</sup> It is still too early to assess the outcome of this plan, which some regard as echoing the plan that was

shelved less than two years previously, with nothing substantially new to mitigate the hardships of the unrecognized settlements.

After the shelving of its plan to regulate the status of the Bedouin, the state has continued its efforts to contend with illegal building in recognized localities in central and northern Israel. The phenomenon of illegal building has played a clear role in shaping the negative image of the Arab population in the eyes of the Jewish public, which tends to view it as a community that does not obey the law. To an equal extent, the phenomenon has cast a dark shadow over relations between the Arab population and the Israeli establishment, the latter which is trying to address the problem by means of the aggressive measure of demolishing homes built without permits. For example, in mid-April 2015, state authorities demolished a house in Kafr Kanna in the Galilee, and, during the same period, the Ministry of the Interior issued demolition orders for structures in the unrecognized villages of Sa'weh in the Negev and Dahamash near Lod.

In December 2014, in parallel with these enforcement efforts, the Israeli government established the "120 Days Team" to consider the government's handling of the housing shortage in the Arab localities. The team was headed by the Finance Ministry's director of budgets, and also included the director of the ILA, directors of the Housing, Transportation, and Environmental Protection Ministries, in addition to representatives of the attorney general, the Tax Authority, and the director of the Authority for the Economic Development of the Arab Sector in the Prime Minister's Office. The government charged this team with formulating a plan of action to address the housing shortage in Arab localities and, in the process, to contend with the different aspects of the illegal construction in these areas.

In June 2015, after a number of meetings, the team published its conclusions and recommendations.<sup>30</sup> Its report analyzed the various aspects of the housing crisis in the Arab sector and its underlying failures. Among other things, the team pointed to the dependence of the Arab municipalities on the regional committees; the socioeconomic condition of the Arab municipalities; the lack of outline plans; the shortage of state land allocated to Arab municipalities; problematic marketing and development processes; residents' difficulties acquiring funding to purchase housing; illegal building; the poor state of infrastructure in Arab localities; the difficulty of implementing land partition

and unification plans; and efforts to contend with the conversion of privately owned land to public or residential building.

Based on an analysis of the obstacles, the team offered a number of recommendations, including the significant proposal to increase the property in the Arab sector by 400–800 dunams (approximately 100–200 acres), to be used to expand building areas for housing, employment, and public infrastructure. The team also recommended increasing the power of the local committees; establishing committees to facilitate a significant expansion of the Arab localities and subcommittees within the regional committees in the North and in Haifa to support plans for parcelization; amending the National Outline Plan 35 to allow a 2% deviation in the built-up areas of Arab communities; reducing the minimum number of residential units required for the submission of a plan to the Commission for the Advancement of Preferred Sites, from 500 to 200 in Arab localities; and advancing a master plan for sewage, as the lack of solutions on this issue limits the ability to increase building.

In the field of development and marketing, the committee recommended to provide preliminary financial support for development even before plots are marketed, in an effort to increase faith that the project will be implemented; to fund and brand new building sites in order to increase demand and the chances of marketing plots; to finance the establishment of public institutions; to adapt and translate tenders into Arabic; to divide the marketing of housing units into smaller groups to make it easier for small contractors to take part in tenders; to market by having local residents sign up; and to promote long-term rental projects.

On the issue of illegal building, the team recommended legalizing existing structures through official procedures of planning and licensing wherever possible. Resolving the planning status of the existing building would begin with a survey of the illegal structures followed by advancing plans for parcelization; regularization of the existing structures to the greatest extent possible; tax breaks as a condition for the registration of assets in the property registry; and promoting a working plan to settle title of unsettled land through the allocation of human and physical resources.

The report's authors maintained that the proposed solutions relate to defined areas such as planning, marketing, funding, and illegal building; in reality, the issue in question is much more complex and requires long-

term treatment. One of the plan's limitations is the fact that the team did not address the budgets necessary to implement its recommendations. Understanding the importance of the issue, however, the team advised to include the recommendations in the economic plan for 2015–2016, which was to be presented to the government for approval.

The issue of home demolitions and the housing and land shortage appear to occupy a prominent position on the agenda of the Joint Arab List, which won substantial support in the last Knesset elections (held in early 2015). The first political initiative of its leader, Ayman Odeh, was a protest march that began in the Negev and ended at the residence of President Rivlin in Jerusalem and sought to sway public opinion regarding the housing shortage in the Arab sector. At the same time, the heads of the Joint Arab List attempted to raise the issue of housing in the Knesset but failed to mobilize enough Knesset members to convene the Knesset plenum. Concurrently, the Higher Monitoring Committee for Arab Affairs in Israel led protest activity against the state's enforcement measures and held a strike and a demonstration in Rabin Square in Tel Aviv on April 28, 2015. Around the time of the demonstration, the organizers issued a statement detailing the extent of the housing crisis in the Arab sector. The statement indicated, *inter alia*, that in 2014, the Israel Lands Authority had issued approximately 1,800 tenders for the construction of housing units in Arab communities, in comparison to 38,000 tenders that were allocated for Jewish localities; in other words, Arab residents, who constitute 20% of the country's population, were allocated housing solutions at a ratio of less than 5% of the overall population.

### **Closing the Gaps in Municipal Services**

Having considered the gaps and inequalities in the provision of local services, the Or Commission called on the state “to initiate, develop, and operate programs, with an emphasis on budgets, that will close gaps . . . in services”<sup>31</sup> (for the purposes of the present discussion, “services” refers to the mode of management of the Arab municipalities). The Lapid Committee determined that Government Resolution 740 (Arab/12) of August 19, 2003 provided a remedy for the conclusions of the Or Commission. This resolution “charges the following parties with the task of submitting to the Ministerial Committee on the Non-Jewish Sector, by means of the Council for National Security and within six months, plans to address the main problems of the

Arab sector in Israel, including specification of the bodies responsible for its implementation, the means of implementation, budget, and timeframe.”

Section 1(e) stated that one aim of the plan should be to strengthen the Arab municipalities, including mixed municipalities, and to examine, among other things, the chronic problems that encumber the functioning of the municipalities in the Arab sector, as well as the obstacles that hinder the full implementation of the solutions formulated, and to submit recommendations regarding how to contend with them. According to the wording of the resolution, the minister of the interior is charged with submitting recommendations for the strengthening of the Arab and mixed municipalities, including recommendations for addressing the chronic problems that hamper their functioning and the unique problems of the mixed municipalities.

A general picture of the state of affairs in the Arab municipalities indicates that 80% of the entire Arab population in Israel, which today numbers 1.4 million people (not including the residents of East Jerusalem), live within the boundaries of Arab municipalities. This statistic highlights the major significance of the Arab municipalities in caring for the welfare of this population. These communities are located within the boundaries of more than sixty local municipalities, eleven city municipalities, and four regional councils. The combined jurisdiction of the Arab local municipalities covers approximately 2.5% of the state’s territory.

On the whole, the Arab localities are socioeconomically weak, and their residents suffer from high rates of poverty and unemployment, which limit the municipalities’ ability to increase municipal tax collection and expand their budgets by means of independent income. According to a 2012 report by the state comptroller, only 2.4% of the industrial areas in Israel are located within the boundaries of Arab local municipalities. This creates hardship in Arab communities, as industrial areas are essential to the economic and employment-related development of each locality.<sup>32</sup>

In addition, the Arab municipalities are facing a financial crisis that is far more severe than the budgetary crises of the Jewish municipalities. The situation depicted above—of a severe shortage of industrial and commercial areas—has had a detrimental impact on the tax potential of the Arab municipalities and, as a result, has severely affected the quality of services they provide. As a result of the budgetary crisis, one out of every five Arab

local municipalities is run by a committee appointed by the Interior Ministry, in comparison to one out of every twenty-five Jewish local municipalities.<sup>33</sup>

The local property taxes collected by the municipalities are divided into three primary categories: household; industry and commerce; and property tax that the government pays the local municipality for the use of buildings located within their jurisdiction. In 2009, only 1.6% of the overall annual property tax in the State of Israel was collected by Arab local municipalities.<sup>34</sup> Over the years, the low rate of tax collection from households has been frequently highlighted as a chronic problem of the local municipalities in the Arab sector, attributed primarily to internal obstacles such as the Arab population's lack of willingness to pay municipal taxes and the power of the family-clan element in local Arab politics, alongside the weakness of the local authorities as a result of these problems.

For example, the cumulative collection rate in Arab cities in 2008 was 27.3% compared to 63.1% in the country's Jewish cities, and 31.5% in Arab local municipalities compared to 76.9% in Jewish local municipalities.<sup>35</sup> The data reveals, however, that Arab local municipalities receive only 1% of all the local property tax collected from the country's industrial and commercial areas, which accounts for more than half of the overall property taxes collected.<sup>36</sup> The situation appears to be even more severe in terms of the property tax paid by the government, which is almost non-existent in the Arab sector. Indeed, the Arab municipalities receive only 0.2% of the government-paid property tax.<sup>37</sup>

Since the publication of the recommendations of the Or Commission and the Lapid Committee, some progress has been made in the government's strengthening of the local Arab municipalities. This has included a number of measures aimed at increasing the municipalities' level of economic and physical development. The period 2010–2012 alone witnessed six government resolutions, including development plans for Arab localities amounting to NIS 3.8 billion.<sup>38</sup> These plans contain primarily budgets for planning, infrastructure, and sewage development, the construction of public buildings, the development of transportation infrastructure, and the upgrading and development of industrial areas and employment plans. The Plan for the Development of the Bedouin Localities in the South (Resolution 3708) and the Plan for the Development of Druze and Circassian Localities (Resolution 2861) also were allocated resources for initiatives in the field of education

and welfare, unlike the plans for the rest of the Arab population, which, as explained, emphasized economic and physical development.

The reason for this apparently lies in the overall approach of the government policy toward the Arab population, which, since 2007, has sought to reduce the gaps between the Jewish and Arab populations in the social and economic realm and to integrate the Arab sector into the state economy.<sup>39</sup> To this end, Government Resolution 1204, of February 15, 2007, established the Authority for the Economic Development of the Minorities Sector, headed by Ayman Saif, which coordinates diverse activity in areas such as promoting job training, retraining college and university graduates, encouraging personal investment, and activities of civil society organizations.<sup>40</sup> As part of this approach, the state has sought to embed the concept of overall economic development within the local Arab municipalities in order to transform them into an active force that advances local economic entrepreneurialism and upgrades and adapts the municipal economic infrastructure, including industrial areas.

In contrast to the progress made in allocating resources designated for the economic plans for Arab communities, the government's attempt to establish a fund to distribute on a nation-wide basis the income from property tax paid on government properties and government-owned companies has been less successful. In 2008, it was decided to establish such a fund with NIS 1.1 billion. As of 2009, the relative share of all the Arab local municipalities in overall government local property tax stood at 0.2%, and most was collected in the city of Nazareth. The attempt to encourage the establishment of joint employment centers in order to increase the employment potential in Arab municipalities also has had limited success; since 1999, only seven such partnership agreements have been signed while their contribution to the income of Arab municipalities has been minimal. According to the agreements, the Arab municipalities receive only a negligible share of the income.<sup>41</sup>

The Interior Ministry's measures of supervision and guidance have also been employed for the sake of developing Arab municipalities.<sup>42</sup> These measures have been applied not only at the recommendation of the Or Commission and the Lapid Committee but also as a result of the financial crisis, which affected a large number of the municipalities in Israel. In 2004, as a result of the crisis and based on amendments to the legislation, the Interior Ministry began supervising the budget limitations of local municipalities by appointing

a supervising accountant. As of July 2013, such accountants were at work in fifty-seven Arab municipalities and eighteen Jewish ones. The Interior Ministry also began promoting plans to rehabilitate the municipalities, which included measures to be more efficient and increase income. Under these plans, grants were awarded to municipalities to cover some of their deficit. The designation of appointed committees to run municipalities is a severe measure, and on the eve of the elections, such committees were operating in sixteen Arab municipalities.

From this perspective, the conclusions of the Or Commission are still far from being implemented. The income level of Arab municipalities is still among the lowest in the country, which affects their ability to finance and provide services for the well-being of the population. The budgetary shortage stems not only from low collection rates but also from the fact that the Arab municipalities have few assets with high property tax, such as industrial areas, commercial areas, and employment areas; infrastructure installations; government structures; and large residential areas in relation to the population.<sup>43</sup> The government's recognition of the need to develop the Arab population as a means of strengthening the Israeli economy has not yet been incorporated at the municipal level, even though it has been articulated in some of the government development policy vis-à-vis the Arab sector. The government's efforts mostly have been channeled into encouraging Arab economic entrepreneurialism and expanding the potential for Arab participation in the workforce in Israel, two goals that were actually intended to strengthen and ensure the Jewish hold on the periphery and only to a lesser extent to strengthen the Arab periphery by increasing development in the Arab communities.



## Chapter 5: **The Political Reality**

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### **From Political Marginalization to Radicalization**

During the fifteen years that preceded the elections for the twentieth Knesset, Arabs in Israel began to withdraw from the political system, which was reflected primarily in their marked decline in voting in the general elections for the Knesset.<sup>1</sup> The decline was explained by the sentiment felt by many Arabs in Israel that their participation in the political system had been ineffective. Although they have the right to vote in elections and to select their representatives in the Knesset, they have never been incorporated into a governing coalition and have therefore remained excluded from decision-making processes in the country.<sup>2</sup> The only exception to this dynamic occurred during Rabin's second term as prime minister, when the Arab Knesset members were an oppositional bloc, giving the government a parliamentary majority to make decisive political decisions. During this period, Arab society felt that its voice and agenda influenced the Israeli political system, including decisions relating to peace and security issues.

This instance was exceptional in the political reality of the Arabs in Israel. In actuality, Arab society has internalized the reality that its participation in elections is not indicative of any partnership in determining the shared future of Israeli society or in setting shared values.<sup>3</sup> From the ranks of the opposition, Arab Knesset members have also been unable to influence decision-making processes or advance interests that are essential to Arab society in different fields because, as a minority, their abilities have remained limited, and Jewish Knesset members also have not been party to the particular legislative efforts advanced by the Arab community. In this reality, more and more Arab voices in Israel have argued that they must cease serving as the fig leaf of the Israeli government, which portrays itself as a democracy.<sup>4</sup>

This reality also remained fundamentally unchanged when, during the period leading up to the elections for the twentieth Knesset in March 2015, an alliance of Arab parties, known as the Joint List, was established for the first

time in history, following the increase in the electoral threshold.<sup>5</sup> Although the Joint List won thirteen Knesset seats and emerged from the elections as the third largest party in the Knesset, it remained in the opposition, outside of the major decision-making processes. Even before the election, however, the leaders of the Joint List announced their intention to remain outside a government led by the “Zionist Camp,” reflecting the difficulty of Israeli Arabs in cooperating with Zionist-Jewish parties as part of a coalition that is deeply involved in the Arab/Palestinian-Israeli conflict.<sup>6</sup>

Although the hopes for effective political representation of the Arabs in Israel have thus far been disappointing, the increased rate of voter participation among Arab citizens of Israel (63.5%, as opposed to 56.5% in 2013), and the Arab representation in the Knesset in the 2015 elections are indicative of a more effective political future. Yehuda Ben-Meir maintains that if Arab voter participation continues to increase until it is equal with Jewish voter participation, the Joint List could win eighteen seats. And if this is accompanied by a greater willingness for full integration into the Israeli political system, it could have a dramatic impact on the character of future Israeli governments and the Israeli political landscape as a whole.<sup>7</sup>

Arab society, which has witnessed the inability of its leadership to advance a joint vision with the state and with Jewish society and has felt marginalized from the political system, has undergone two trends over the past decade. One is the active and effective integration within nonprofit and civil society organizations that promote the interests of Arab society in different areas relating to the state. The other is the internal convergence of national and religious issues, reflecting the increasing strength of the Islamic Movement—particularly the northern branch, which calls for boycotting the elections—and the strengthening of the Arab-Palestinian nationalist camp (the Balad party), which advocates Palestinian unity within one political framework and strives, as a first step, for a binational arrangement within Israel. Factors contributing to this development have included the decline of the Arab world as a dependable source of political power; the continuation of the Arab/Palestinian-Israeli conflict; and the violent events that have accompanied it (the Second Lebanon War and the military operations in the Gaza Strip: Cast Lead, Pillar of Defense, and Protective Edge); as well as the decline of the PLO and the national Palestinian leadership in the West Bank.

These changes have exacerbated the sense of uncertainty about the future among Arab society in Israel. As a result, they have helped to weaken the Arab-Israeli movement that advocated for Arab integration into Israeli society and the state, while strengthening the Islamic and nationalist political currents, which do not pin any hopes on integration into the state. On the other hand, the Jewish-Arab communist stream, which advocates joint Arab-Jewish civic activity, has maintained its strength within the Arab public.

It is still too early to assess the impact of the Joint List in the twentieth Knesset on the political balance of power in Arab society. In part, this depends on the ways in which this historic Arab political unity and the sizable Arab delegation in the Knesset are utilized: if they will be able to increase the number of Arab Knesset members in parliamentary committees in order to transform the Israeli legislature into an effective arena for advancing the interests of Arab society (in the spirit of the Hadash party, which advocates joint Arab-Jewish parliamentary action), or if they can advance interests outside the Knesset (such as transforming the Higher Monitoring Committee into a leader of Arab society). This latter approach reflects that of the Islamic Movement and Balad, for whom parliamentary politics is a means of advancing their separate ideological goals.<sup>8</sup>

The following survey reflects the political balance of power during the decade leading up to the 2015 elections.

## **The Strengthening of Political Camps that do not Advocate Integration**

### ***The Islamist Camp***

Components of religion and tradition are the primary expressions of identity of Palestinian Arab society in Israel. The Islamic Movement in Israel, established in 1972 as part of the return to Islam that has characterized the Middle East, strengthened the Muslim religious identity of Israeli Arab society, which had been grappling with the question of its identity as a Muslim minority in a Jewish state since 1948.<sup>9</sup> Over the years, the Islamic Movement has succeeded in reviving the religious Muslim heritage of pre-1948 Palestine and in recultivating Muslim symbols of identity that are linked to the Palestinian collective identity. The Islamic Movement in principle does not accept Jewish sovereignty over Palestine because it is considered waqf land. At the same time, the leaders of the Islamic Movement do not

negate other components of identity, such as Palestinian national identity, pan-Arab national identity, or even an Israeli civic identity. They reject the Zionist character of the state but recognize, as an established fact, the existence of Israel as a country with a Jewish majority whose dominant culture is Hebrew and Jewish in character. Based on these understandings, the leaders of the Islamic Movement call for organizing the Arab minority on a Muslim religious basis, while considering the existing political reality in the country.

The process of Islamization that has characterized Arab society in Israel in recent decades continues, although the political power of the Islamic stream has not achieved full expression in the Knesset as a result of the internal split within the Islamic Movement.<sup>10</sup> The uncertainty of the collective status of the Arabs in Israel, particularly given the emphasis on the state's Jewish definition, has also contributed to this process. Because Israel has not taken concrete steps toward civil equality for Arabs and has been slow to implement the recommendations of the state inquiry into the issue, the majority of the Arab population believe that the problem is not material in nature but rather relates to Israel's definition as a Jewish state; thus, turning to religion as a framework of identity is a legitimate alternative that compensates for this uncertainty.

To achieve greater public legitimacy, the Islamic Movement has also incorporated the nationalist component into its espoused identity.<sup>11</sup> In contrast to the weak connection between the Arab nationalist movement in Israel and decision makers in the Palestinian Authority, the Islamic Movement in Israel and Hamas—the Islamist movement in the territories—continue to strengthen their ties. In this way, Islamist ideology competes with the platforms of the Arab political parties and the ideas of the non-religious intellectual elite, as articulated in the Vision Documents.

### ***The Nationalist Camp***

The nationalist camp is represented in the Knesset by the Balad party, which first took part in Knesset elections in 1996 (another group in this camp is represented by the *Abna al-Balad* ["sons of the village"] movement, which boycotts Knesset elections). The nationalist camp espouses the premise that the Arabs in Israel are Palestinians and therefore should unite with their fellow Palestinians in one political framework. This premise relies on the

principles of the Arab nationalist movement, which was led by Egyptian President Gamal Abdel Nasser in the 1950s and 1960s, and advocated for the establishment of a democratic state in all of what had been Mandate Palestine (like the position of the opposition groups within the PLO, such as the Popular Front and the Democratic Front). Adherents of the nationalist camp maintain that unity with their fellow Palestinians at the present time is manifested only in their national and political aspirations. For this reason, they are willing to recognize Israel as a given reality. At the same time, they demand that the Arabs of Israel be granted cultural autonomy as a first step toward a binational arrangement within the country. Although adherents of this ideology organize their political activity on an Arab national basis, they do not rule out Arab-Jewish cooperation on a tactical level.<sup>12</sup>

In the past decade, the nationalist camp succeeded in establishing itself in the Arab-Israeli political system. It enjoys stable support from the Arab voting public and has had continuous representation in the Knesset. Its influence on the Arab political and public discourse in Israel, however, is much greater than its political strength. Its leaders have introduced key concepts to the Arab and Jewish political discourse in Israel, such as the concept of a “state of all its citizens,” “cultural autonomy,” and “indigenous minority.” These ideas enjoy the solid and widespread support of the Arab public, as reflected in public opinion surveys that have been conducted in recent years. Nationalist activists were prominent partners (along with members of the Arab-Jewish Communist camp) in the formulation of the Vision Documents, which articulated, for the first time ever, a collective position of Arab society in Israel regarding the character of the state and its desired position within it.

### **Weakening of the Arab-Israeli Political Camp that Advocates Integration**

This political camp has existed in Israel since the establishment of the state, and its adherents represent the “moderates” within Arab society. They are in favor of civic equality and a two-state solution, and their representatives are integrated into both left and right-wing Jewish-Zionist parties. The adherents of this camp have not developed an independent ideology but rather have adapted themselves to the political and ideological principles dictated by the Zionist parties to which they belong. They have come to

terms with the status of Arab society as a minority within the state and do not seek to subvert neither its definition as a “Jewish state” nor the existing political order.

Although they regard the Arabs in Israel as a national minority, they do not unequivocally demand to be officially recognized as such. Their struggle focuses on achieving civil equality for Arabs and finds expression in the demand for equal allocation of economic resources, the provision of equal opportunity in employment, and other manifestations of equality. In the political realm, they advocate a two-state solution to the Palestinian-Israeli conflict and believe that progress in the political process vis-à-vis the Palestinians and in the struggle for equality within the State of Israel will lead to improving the status of the Arab citizens of Israel. At the same time, they reject the idea of a struggle based on illegal or violent means to achieve political aims.

The past two decades have witnessed an ongoing decline in the political strength and Arab public support of this camp. Today, this camp enjoys support primarily from the Druze who have been traditionally associated with it.<sup>13</sup> At the same time, it has all but disappeared from the political map in large Arab localities in the Galilee, the Triangle, and the Negev.

### ***The Arab-Jewish Communist Camp***

In contrast to the three political camps discussed above, the Arab-Jewish Communist one has maintained its strength over the past decade. It is one of the oldest and most active ideologies in Arab society since the establishment of the state. Adherents of this approach have traditionally advocated Arab participation in Israeli politics and are currently represented by the Hadash party. They object ideologically to political organization on a separate Arab national basis, and they attribute great importance to joint Arab-Jewish activity, based on their conviction that this will help advance the interests of Arab society in the country.

Adherents of the communist position accept the existing balance of power between the Jewish majority and the Arab minority but believe that discrimination against the Arab minority is inherent in Israel’s definition as a Jewish state, which results in preferential treatment of the country’s Jewish citizens over all others. For this reason, they have called for terminating the Jewish-Zionist character of Israel as a necessary precondition for turning it

into a democratic state while demanding recognition of the country's Arab population as a national minority. In the realm of foreign affairs, the adherents of this camp support the establishment of a Palestinian state alongside Israel according to its pre-1967 borders. They link progress in the political process between Israel and the Palestinians to the struggle for the equal rights of Arab citizens. They also regard the Palestinian nationalist aspect and the Israeli civic one of the Arab citizens' identity as being complementary rather than contradictory.

The Joint List for the twentieth Knesset was and continues to be led by Hadash's Chairperson Ayman Odeh, who has articulated a pragmatic approach of Arab integration into Israeli society and the state. His appointment may be indicative of Hadash's strength in the eyes of the other parties in the Joint List—Balad, Ahmed Tibi, and the Islamic Movement.<sup>14</sup>

### **A Window for Cooperation on Social and Economic Issues**

In recent years, Arab society in Israel has focused primarily on its status as a national and civic minority in the country and on the need to solve its hardships in the fields of health, education, violence, and the status of women. This focus was reinforced on the eve of the elections for the twentieth Knesset by a survey in which members of the Arab population ranked the internal problems of Arab society and the government's policy toward the Arab sector as the two most urgent problems that Arab Knesset members would need to address after the elections. In comparison, the negotiations between Israel and the Palestinians were ranked only third in importance.<sup>15</sup> The Arab political leadership appears to have responded to this position and to their electorate's desire for unity. As noted, Ayman Odeh, the chairperson of Hadash, who was chosen as the leader of the Joint List for the twentieth Knesset, has articulated a pragmatic policy of Arab integration into the state and society.<sup>16</sup>

Nonetheless, Odeh's Palestinian Arab nationalist principles are prominent and found expression in his march from the Negev to Jerusalem, aimed at encouraging the authorities to address the housing hardships of the Negev Bedouin. At the same time, Odeh seeks to expand the perspective and discussion to also include the Jewish population and its national needs and to create a mutual dialogue on social and economic issues. According to researcher Doron Matza, Ayman Odeh actually represents the "third path"

in Arab politics.<sup>17</sup> This path differs from that of the Islamic Movement and the Palestinian Arab nationalist camp, which have articulated an oppositional approach vis-à-vis the state and the Jewish population in order to change the status quo, characterized by asymmetrical relations between the minority and the majority. Matza identifies the roots of this process of change in Arab politics in the revolutionary wave that swept through the Arab world in 2011 and its Israeli incarnation in the social justice protests in the summer of that year. From the perspective of the Arab population in Israel, these two events positioned the social discourse as a legitimate political ideological alternative, alongside the Islamist-religious approach and the Arab nationalist one. The social discourse has been accepted without having to negate the legitimacy of the religious and nationalist approaches, and it appears to have the potential of forging a connection between Arab and Jewish society, by addressing social hardships, such as housing and cost of living.

Matza believes that the Joint List can adopt a conceptual language shared by the Jewish middle class, the ultra-Orthodox community, and the Arab population, in a manner that will allow Arab society to join the circle of social discourse that has emerged in Israeli society and become a partner in shaping the country's agenda.<sup>18</sup> As researcher Orna Cohen has identified, the fact that approximately half the members of the Joint List have significant experience working in different civil frameworks aimed at advancing the status of the Arab population could be influential in this process.<sup>19</sup> Based on their experience, their platform,<sup>20</sup> their statements, and their actions, it seems that the members of the Joint List may advance the struggle for the rights of all citizens and promote the interests of deprived classes; they have proclaimed that their hands are extended to all the disadvantaged populations in the country, regardless of whether they support the Joint List. This approach has been illustrated in the way that the Joint List has addressed the status of women. Knesset member Aida Touma-Suleiman, as the chairperson of the Knesset Committee for the Advancement of the Status of Women and Gender Equality, works to promote measures that address the exclusion of women from the public sphere, discrimination against women on grounds of ethnic origin, and acts of violence against women. Efforts in these areas benefit secular and religious Arab and Jewish women alike.<sup>21</sup>

In conclusion, the pragmatic policy of the Joint List, which advocates the integration of Arabs into Israeli society and the Israeli economy, may provide

a suitable foundation for cooperation between the Arab leadership and state authorities for the purpose of advancing Arab integration in different spheres and scaling back civil inequality. The current historic window of opportunity appears to have transformed the inherent tension between the Jewish parties and Arab parties in the Knesset into a fertile ground for cooperation that may prove successful in advancing social and economic issues. We can assume that proceeding along this path, which distances itself from discrimination and exclusion on ethnic grounds and responds by thwarting of legislative efforts which Arab society perceives as exclusionary, will make a significant contribution to relations between Arabs, on the one hand, and the state and its Jewish population, on the other hand.



**PART II:**

**DETERIORATING JEWISH-ARAB  
RELATIONS AND CONCURRENT TRENDS  
OF INTEGRATION**



## Chapter 6 : **The Roots of the Conflict and the Continuing Struggle for Equality**

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### **Facing Their Fate: Not Part of the Conflict's Solution**

The political process between Israel and the PLO at the beginning of the 1990s made it clear to the Arab population of Israel that solving the conflict based on a two-state solution would leave them outside of any solution in terms of defining their identity and their status within Israel. They realized that the PLO did not represent them, and that if a political settlement was reached, they could very well find themselves excluded by the State of Israel and the Palestinian state, without any party caring for their vital interests, such as solving the problem of the internal refugees and compensating for land expropriation.<sup>1</sup> It also became clear that the negotiations between the sides were meant to contend with the issues of 1967, and not of 1948, and therefore did not concern them, except for Israel's demand that the PLO recognize the Jewish character of the state. Indeed, this was the only issue that linked the efforts to resolve the Israeli-Palestinian conflict with the attempt to redefine majority-minority relations in Israel. Although the state's Jewish and democratic character is of secondary importance for the PLO, it makes it difficult for the Arabs in Israel to identify with the state and integrate into it as equal citizens. The Arabs in Israel perceive Israel's definition as a Jewish state as means of excluding them from the Jewish majority, imposing upon them discriminatory legislation, and preventing them from having a sense of belonging to the state.<sup>2</sup>

Arab intellectuals and public figures regarded the events of October 2000 as an expression of processes that have been deeply rooted in the political consciousness of the Palestinian Arab population. These processes, they hold, are related not only to the reality of their current social and political life but also to a political consciousness shaped by the trauma of the Nakba and loss of their personal and national home. From their perspective, trauma and loss are not merely things of the past but rather continue to be expressed

in Israeli government policies; based on the state's definition as a Jewish state, these policies prevent Arab society from having any future political horizon and condemn it to remaining on the sidelines.<sup>3</sup>

An intensive process to resolve the status of the Arabs in the country followed the events of October 2000 and the collapse of the political process between Israel and the PLO (2000–2001) and given the Arabs' ongoing ineffective political participation as a social group with desires and rights in Israel.<sup>4</sup> Arab intellectuals from different fields who were educated in Israel and in the West began to analyze the fundamental status and state of Arab society in Israel and to propose new perspectives and different directions for action. They also established major civil society organizations such as Adalah: The Legal Center for Arab Minority Rights in Israel and the Mossawa Center: The Advocacy Center for Arab Citizens in Israel; research institutes such as Mada al-Carmel (affiliated with Balad); and nonprofit advocacy and social development organizations. These bodies have overseen the writing of research studies, the holding of conferences, and the publication of diverse literature on the subject. In practice, intellectuals, and less so the Arab political parties, have begun to influence the political discourse of the Arabs in Israel.

The political discourse of Arab society in Israel has undergone profound upheaval. Various attempts, some involving Jews and Arabs, to formulate practical ideas for instilling coexistence in Israel on the basis of civil equality have not been successful.<sup>5</sup> The idea of “civil equality” as a legal political framework for bridging the gap between the definition of Israel as a Jewish and democratic state and the national political aspirations of its Arab citizens has been undermined. Alongside those within Arab society who advocate for improving the status of Arabs in Israel and for two states existing peacefully side by side with one another and those who support an Islamic religious ideology and regard Israel as a foreign entity that will ultimately cease to exist, a new ideological camp has emerged, which seeks to change the state's political structure from within.

### **The Demand to be Recognized as an Indigenous National Minority**

The new ideological camp within Arab society, represented by Arab intellectuals who were educated in Israel and the West, seeks to connect

the idea of the homeland and the state through civil equality, on the one hand, with recognition of the status of Israel's Palestinian citizens as an indigenous people, on the other hand. In this way, this ideological current seeks to transform Israel into a state of all its citizens or a binational state. Adherents of this position have employed concepts that are also used by the establishment—such as equality, democracy, and civil rights—to forge an alternative discourse.<sup>6</sup>

The most significant change in Arab political discourse has been moving away from the demand for civil equality (liberal democracy, “a state of all its citizens”) to the demand for collective rights and recognition of the Arabs as a national minority (“consociational democracy,” “autonomy”) as the main principle defining Arab politics in Israel. At the same time, recognition of the importance of indigenesness as a component of Arab identity and politics has intensified, and a trend of finding a connection with the pre-Nakba past is underway. This has been manifested by increasing participation in “Nakba Day” and the emergence of a pattern of regular visits and marches to destroyed villages. This development has transformed the Nakba from a historical event to an event possessing political and strategic relevance for the present and has made indigenesness a factor that legitimizes the political aspirations and aims of the Arab population. In other words, the idea evolved that returning to the roots of the Arab-Israeli conflict was necessary in order to resolve the question of the status of the Arabs in Israel in a way that removes the ongoing threat to their political and cultural identity. The new terminology has encompassed the language of human and civil rights, which is familiar and accepted in the international community and can be disseminated and articulated around the world.

The intellectual, political, and civil leadership of Arab society has sought to institutionalize the struggle for equality on two primary levels: first, by expanding the activity of civil society groups and nonprofit organizations; and second, by rejuvenating and preserving Palestinian national culture and heritage. This has involved, among others, the documenting and preserving of the memories of the generation that experienced the Nakba; marches of internal refugees to the remains of their villages that were destroyed during the 1948 War; efforts to preserve Arab and Islamic sites in order to prevent the denial of a rich and continuous Arab and Islamic heritage in the country; and, at the same time, placing indigenesness before citizenship as a

source of rights based on international norms, as reflected in the four Vision Documents that were issued between December 2006 and May 2007.<sup>7</sup> The disillusionment with the state's disregard for the recommendations of the Or Commission in almost all areas and especially the failure to prosecute the police personnel who were involved in the killing of the civilians in the events of October 2000 have only served to encourage the Arab leadership's work in this direction.

Although the four Vision Documents expressed support for a two-state solution to the Palestinian-Israeli conflict, their main emphasis was a call for constitutional change within the Israeli governing system. They proposed a binational structure or a bilingual and bicultural one that would annul the laws that give preferential treatment to Jews (such as the Law of Return, the Jewish National Fund Law, and the Jewish Agency Law), on the one hand, and would recognize the Arabs' status as a group that has a national, religious, and cultural uniqueness, on the other hand. As such, the Arabs would be given the rights of an indigenous people in terms of resources and land; have the authority to engage in autonomous administration of their education and cultural system; and be partners in government resolutions regarding the division of resources in the country. This call for change stemmed from the Arabs' desire to be treated as an indigenous minority, whose rights to land and to the homeland existed prior to the establishment of the state, and not simply as a minority within a Jewish majority.

Although the documents emphasized the Palestinian national identity of the Arabs in Israel, they also stressed that the political and state framework in which they wished to live is the State of Israel. In no way did they link their future in Israel to progress in the negotiations between Israel and the Palestinians or to relations between the future Palestinian state and the Arabs in Israel. The documents represent the collective demand of the Arab intellectual elite that the state and the Jewish public consider the views of the Arab public when determining the future and status of the Arabs in the country, and they proposed a "permanent agreement" of sorts between the Arab citizens and the state unrelated to resolving the Israeli-Palestinian conflict.

The Arab intellectual elite have also expanded their activity in the international sphere. This has included primarily advocacy before institutions of the United Nations and the European Union, as well as organizing public events

and writing statements and articles targeting public opinion throughout the world and focusing on the government's failings with regard to discriminatory policy against Israel's Arab citizens. The activity of organizations such as Ittijah (the Union of Arab Community-Based Associations), the Arab Association for Human Rights, the Association of the Forty, Adalah, and the Mossawa Center have been prominent in this field. For example, Nadim Rouhana, an author of one of the Vision Documents ("The Haifa Declaration"), published an article aimed at the American public in which he attacks the US administration for recognizing Israel as a Jewish state and asserts that from a moral perspective, the United States must change its policy, as it currently legitimizes the continued violation of the rights of Arabs in Israel.<sup>8</sup>

This wide-scale activity reflects the evolution of the political process that has encouraged the Arab intellectual elite to take the stage as an actor capable of challenging both the Israeli and the Palestinian political orders. Members of the elite have used political and democratic tools, including civil society organizations, to serve as agents of change and to advance two primary goals: first, to change Israel's regime structure and definition as a Jewish and democratic state, in order to fundamentally transform the situation and the status of Arab society in Israel;<sup>9</sup> and second, to convey to the PLO leadership that it should not recognize Israel as a Jewish state and that the solution to the refugee problem does not fall to the authority of the PLO alone, as it does not represent the internal refugees within Israel.<sup>10</sup>

In accordance with distinguishing between the concept of the Nakba as a "trauma of loss" and a "trauma of absence," supporters of the new ideological camp advocate for the latter approach, which gives hope that what has occurred can and must be restored, and therefore they reject a political settlement of partition of the country and rather strive for one state, whether it be binational in character or a state of all its citizens.<sup>11</sup> It is therefore not surprising that the Vision Documents were issued just a few years after the Arab Peace Initiative, as the initiative completely excluded the Arab citizens of Israel from its purview. At the same time, however, the collapse of the political process and the continuation of the conflict pushed the intellectuals who formulated the documents to return to the beginning of the conflict and to emphasize the centrality of the "problem of 1948." In this manner, focusing on the Nakba is meant to return the Palestinians in Israel to center stage.<sup>12</sup>

## **The Fear of Separatism as a Reason for Government Policy**

From the perspective of Israel's Jewish population in general and the state security system in particular, the Vision Documents are regarded as a subversive activity with the potential to endanger Israel's future existence as a Jewish state. The Israeli government did not formally respond to the documents. Senior Jewish academics have tended to regard them as radical, unbalanced, and unrealistic, and therefore as not constituting a basis for genuine dialogue between the Arabs and the state. The prevailing hypothesis has been that the documents were directed at the Arab population and the international community and may have been intended to express defiance toward Israel after years of deprivation. There has been general consensus that official recognition of the Arabs as a national minority, which all this entails, is extremely important and that an ongoing dialogue should be conducted with representatives of Arab society at an academic level and with the participation of civil society organizations.

Following the publication of the Vision Documents, the General Security Services (GSS) presented its assessment to the political echelon that the documents reflect separatist trends and subversion against the Jewish and democratic character of the State of Israel, which could sweep up the masses in its wake.<sup>13</sup> The GSS maintains that such activity needs to be thwarted—even if it is carried out using democratic means—in the name of protecting democracy and by virtue of section 7(a) of the General Security Service Law of 2002, which entrusts the GSS, *inter alia*, with preserving state security and the arrangements and institutions of the democratic regime against threats of subversion.<sup>14</sup> From the perspective of the GSS and others, the security threats posed by the Arabs of Israel have increased during this period. This includes the Palestinians' increased identification with terrorist entities and with Iran, Hezbollah, and elements that reject the very legitimacy of Israel's existence as a Jewish state. At the same time, based on the recognition that most Arabs are loyal to the state, the GSS recommended that the political leadership contend with the security risks by integrating the Arab population into the economy as well as Israeli society. The disclosure of WikiLeaks documents in mid-2008 indicated that, at the time, the GSS encouraged Israel to take more forceful action to connect Israeli Arabs to the state, for example, by creating jobs in the hi-tech sector and establishing colleges and training centers for Arabs.<sup>15</sup>

Ehud Olmert, Israel's prime minister at the time, accepted the assessments and recommendations of the GSS and, at the Prime Minister's Conference for the Arab Sector held in mid-2008, said the following:

The Arabs of Israel are not a strategic threat . . . Despite sixty years of statehood, and not only due to discriminatory government policy, we have not achieved a suitable relationship with them. However, the conditions are now ripe for changing the situation . . . To do so, we must take action first and foremost in the economic realm, for integration and equality as opposed to equality and integration . . . One state must have one economy, and it is therefore necessary to integrate the economy of the Jewish sector and the economy of the Arab sector . . . Only the integration of the Israeli economy with the sub-economy of the Arab sector can create conditions that are conducive to equality . . . Still, social change cannot fall only on the shoulders of the government . . . The Arab population in Israel must take responsibility that leads to change as full partners and citizens of the state, and not as critics standing on the sidelines . . . Israeli citizens must be educated that the Arabs in Israel are citizens with equal rights.<sup>16</sup>



## Chapter 7: **New Legislative Initiatives by the State**

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The discourse of the development and economic integration of the Arab minority has become fashionable, and significant steps in this realm—such as the establishment of the Authority for Economic Development—have indeed been taken.<sup>1</sup> However, these measures stand alone and are disconnected from efforts to advance fundamental and comprehensive civil equality. Moreover, concurrent with the policy of economic integration, some groups within the Jewish population have increasingly called to weaken the position of the Arabs in Israel and to reduce their civil rights.

This chapter reviews the principal legislation, intended to settle some of the most volatile issues embedded in the delicate fabric of relations between the Jewish majority and the Arab minority in Israeli society. Some have expressed the necessity of this legislation for protecting the state's fundamental principles, security, and Jewish character. Others have characterized it as anti-democratic legislation,<sup>2</sup> aimed at harming the democratic values in general and the rights of Israel's Arab minority in particular. The chapter reviews four laws whose constitutionality has been affirmed by the Israeli High Court, whether on grounds of ripeness (based on the rationale that, because they had not yet been implemented, it is still premature to examine their impact and the constitutionality of the specific arrangements and provisions they established<sup>3</sup>) or for other reasons, despite being subjected to severe criticism and significant disagreement between the High Court justices. This chapter also surveys two major bills, which are still in the midst of the legislation process and will most likely be part of the parliamentary work of the twentieth Knesset, and reviews the criticism that has been leveled against these legislative efforts.

## **Basic Law: The Budget (Amendment No. 40), 2011 ("The Nakba Law")**

The original text of the Budget Law (Amendment No. 40), 2011, which has come to be referred to as the "Nakba Law," was a private bill proposed by Knesset members of the Yisrael Beiteinu party and submitted to the Knesset on April 1, 2009. The proposed law<sup>4</sup> stipulated that anyone committing an act or holding an event that constituted observing Israeli Independence Day or the very establishment of the State of Israel as a day of mourning or remorse would be subject to three years imprisonment.<sup>5</sup> This bill, which sought to establish criminal punishment, was ultimately abandoned, and three months later, on July 6, 2009, the proposed Law: The Budget (Amendment—Prohibited Expenditure), 2009, was submitted to the Knesset in its stead, replacing the criminal sanction with a financial one. The bill was passed on to the Ministerial Committee for Legislative Affairs and, after a number of changes, was returned to the Knesset, where it passed the first reading. After additional changes were made to the bill in preparation for both the second and third reading, the Budget Law (Amendment No. 40), 2011<sup>6</sup> was enacted. The law empowers the finance minister to reduce the funding of a state-funded or subsidized body by up to three times the total of the unsupported expenditure, with the consent of the minister responsible for the budget line that funds the body and after hearing the response of the body itself, in the event that the expenditure is designated, fundamentally, to one of the following: "(1) negation of the existence of the State of Israel as a Jewish and democratic state; . . . (4) observance of Independence Day or the day on which the state was established as a day of mourning." The law prescribes a mechanism for making such a decision, which requires an opinion of the legal advisor to the Finance Ministry regarding the fulfillment of one of these conditions and the recommendation of a "professional committee" regarding the extent of the unsupported expenditure, the implications of decreasing the support for the body or other bodies related to it, and the appropriate budgetary reduction under the circumstances. The minister of finance is to appoint the professional committee, which is to consist of one representative each from the Justice and Finance Ministries, and a representative of the ministry responsible for the budget line under which the body is funded or subsidized.

On May 4, 2011, Adalah: The Legal Center for Arab Minority Rights in Israel, the Association for Civil Rights in Israel, the Alumni Association of the Arab Orthodox School in Haifa, parents of students of the Galil Jewish-Arab School in Misgav, and Prof. Oren Yiftachel submitted a petition to Israel's High Court of Justice against the minister of finance and the Knesset, requesting the law to be annulled.<sup>7</sup> The petitioners argued that the law was injurious to the historical memory of the Arab minority and used the power of the majority to suppress and eradicate the Arab minority's narrative regarding events, facts, sentiments, and ideologies. The petitioners also argued that the law sought to indirectly deter engagement in and development of a cultural discourse regarding the concept of the Nakba and the constitutional definition of the state. The law, they charged, also detrimentally affected a number of rights, including the right to free political, artistic, and academic expression; the right to equality, as it discriminated on the grounds of nationality and social or political outlook; the right to education, as it prevented children from receiving an education according to the Palestinian national narrative and would increase the discrimination of schools in the Arab education system; the freedom of occupation for all those who, in their professional capacity, critically examine the character of Israel as a Jewish state; and the right to the collective integrity of Arab citizens of the state. They also argued that the law did not meet the conditions of the limitation clause and that the law had a chilling effect and deterred people from engaging in such acts, based on fear of being included under its parameters and subjected to budgetary sanctions as a result.

On the other side of the divide, the minister of finance and the Knesset maintained that the law did not justify the court's intervention on procedural grounds (the "ripeness doctrine" and the availability of an alternative remedy) and fundamental grounds, as the state had the authority to direct its budgetary allocations in a manner that refrained from funding activities that would undermine the basis of its existence.

On January 5, 2012, the High Court issued a decision authored by Justice Miriam Naor (HCJ 3429/11).<sup>8</sup> Naor reached the conclusion that the petition should be denied without making decisions about the constitutional questions that were raised. Naor based her ruling on the "ripeness doctrine," according to which it was premature to make any judicial decision, as the provisions in the law had not yet been implemented by the minister of finance, making

it impossible to know when and under what circumstances the minister would make use of the powers granted by the law. Justice Naor also noted that, according to the terms of the law, before the imposition of financial sanctions, the issue was supposed to be examined at a number of stages and by different bodies. Prior to the implementation of the law and the mechanism it established, Naor maintained, the court could not engage in conjectures and speculations about its interpretation and the manner in which it would be implemented. Using the ripeness doctrine, Naor emphasized, did not mean that the court was closed to the petitioners. On the contrary, if and when the law is used in the future, those who are harmed by it—the petitioners and others—would be able to petition the appropriate courts, based on concrete facts. Justice Naor also ruled that the petition should be denied due to the existence of an alternative remedy: the petitioning of the Court for Administrative Affairs, before which the injured petitioners could also present their constitutional arguments with an “indirect attack.”

Justice Beinisch, who concurred with Naor’s view, held that the questions raised by the petition could, under certain circumstances, get to the root of the problems that divide Israeli society, but that the petition was not yet ripe for judicial consideration. According to Beinisch, any decision regarding the circumstances under which, and the extent to which, the law would be implemented, and the interpretation given, would be subject, first and foremost, to the proceedings and limitations set by the executive branch. It was therefore too early to determine, she maintained, whether the different hypothetical scenarios outlined by the petitioners would indeed be realized; to whom they would be applied; if they would, in fact, have bearing on the petitioners; and the events to which the law would be applied. A third High Court justice, Deputy Chief Justice Eliezer Rivlin, also supported Naor’s opinion.

In response to the ruling, the Association for Civil Rights in Israel and Adalah stated that “the court’s ruling ignores the fact that the injury to the freedom of expression and to Arab civil rights already exists in practice, prior to the law’s initial implementation. Because the law’s wording is so broad and vague, many bodies may engage in self-censorship in order to avoid facing this risk. Today, the High Court missed an opportunity to clarify to legislators that there must be a limit to the trampling of human rights in general and the rights of the Arab population in particular.” They also

noted that, “it is unfortunate that, although the High Court determined that the Nakba Law raises complex questions of public importance that descend to the root of the problems dividing Israeli society, it chose to refrain from discussing them until the emergence of a concrete case. The High Court completely disregarded the claim regarding the law’s chilling effect and has sent state-supported bodies to risk a decision of significant reduction in their funding before the law is made subject to judicial review.”<sup>9</sup>

### **The Law to Amend the Cooperative Societies Ordinance (Amendment No. 8), 2011 (“The Acceptance Committee Law”)**

The Law to Amend the Cooperative Societies Ordinance (Amendment No. 8), 2011, known also as the “Acceptance Committee Law,” began as two private bills that were merged into one and underwent a preliminary Knesset reading on December 9, 2009. After numerous discussions and changes to the wording of the bill, sparking lively public debate,<sup>10</sup> the Knesset enacted the Law to Amend the Cooperative Societies Ordinance, 2011 on March 22, 2011.<sup>11</sup> The law allows a small “community settlement” (*yishuv kehilati*) (of up to 400 families), that is located on state land in the Negev or the Galilee and seeks new residents, to allocate land to candidates seeking to settle in them following the approval of an acceptance committee. Acceptance committees are authorized to refuse candidates because they are “not suited to the social life of the community” and due to “a lack of suitability of the candidate to the community settlement’s sociocultural fabric, which, it can be assumed, will have a detrimental impact on this fabric.” In the event that an acceptance committee refuses to accept a candidate to a community settlement, it must provide him or her with a substantiated written decision explaining its refusal. The law also mandates oversight mechanisms that address concerns of discrimination, including a prohibition of discrimination clause, which stipulates that “the acceptance committee shall not refuse acceptance to a candidate on grounds of race, religion sex, nationality, disability, marital status, age, parental status, sexual orientation, country of origin, or political outlook and party affiliation.” There is also an appeal process before an appeals committee, the decisions of which can be taken to the Court of Administrative Affairs.

One day after the Knesset’s approval of the law’s second and third readings, a petition challenging its constitutionality was submitted to the

High Court (HCJ 2311/11).<sup>12</sup> A second petition was submitted one week later (HCJ 2504/11),<sup>13</sup> and the High Court decided to hear both petitions together. The petitioners' main argument was that despite its clause prohibiting discrimination, the law contained vague criteria that, in practice, could enable the acceptance committees of community settlements to discriminate in the allocation of land and to exclude Arabs and other groups in Israeli society. The petitioners argued that the community settlements do not have any unique characteristics and share only the desire of its residents to live in a rural setting, to take part in community activity, and to enjoy a high standard of health care and education services. For this reason, the law was injurious to the fundamental rights of candidates seeking to join community settlements, including their right to human dignity, as a result of the acceptance process; their right to equality, as a result of discrimination against candidates on the grounds of their identity or their personal attributes; their right to privacy, due to the acceptance committees' receipt of personal information regarding the candidates; their right to personal autonomy; and their right to property. The petitioners also argued that the law's purpose—to preserve social cohesion and the residents' desire to live together—was inappropriate when the population in question was neither specifically designated nor unique in nature. Therefore, they argued, the law's true aim was racist: to exclude Arabs from Jewish settlements.

In response, the Knesset and the other respondents maintained that the petitions should be denied, based on the "ripeness doctrine," as no decisions had thus far been made under the law and therefore there were not any concrete petitioners. The respondents also claimed that the law was not injurious to constitutional rights. For example, with regard to the right to equality, it was argued that the reasons for rejecting candidates were based on relevant differences between groups, and that the law contained a mechanism for maintaining an appropriate balance between preventing discrimination on the one hand, and the desire to ensure the future development of the community settlements on the other hand. This balance found expression in various components of the Acceptance Committee Law, including, among others, its limited application; the finite list of considerations under which acceptance committees could refuse to accept a candidate; and the need for a professional opinion to substantiate a rejection and to convene an appeals committee. In addition, the respondents argued that the law's aim—to preserve

the cohesion of small communities in the periphery and to allow citizens to exercise their right to community life in community settlements—was a worthy purpose.

On September 17, 2014, the High Court denied the petitions and upheld the law’s constitutionality.<sup>14</sup> The majority opinion, led by Chief Justice Asher Grunis, based its ruling on the “ripeness doctrine,” and maintained that although the petitions raised constitutional questions and claims of jeopardizing fundamental rights, these questions could not yet be decided upon, due to the lack of a sufficient factual foundation and concrete petitioners. According to the majority opinion, the law’s infraction of fundamental rights and its constitutionality—before the law was actually implemented and before any decisions were made based on the law’s authority—was only a possibility, and there was no way of truly knowing how the law would be realized. The need for a concrete factual foundation became more acute in light of the petitioners’ main argument: that the law’s general clauses would serve as cover for discrimination in practice. However, the majority of justices maintained that the language of the law did not support this conclusion, particularly given the clause in the law that explicitly prohibited discrimination in accepting candidates. Therefore, just as it could not be determined that the law harmed constitutional rights and that the harm did or did not meet the conditions of the limitation clause, it was also impossible to rule out the possibility that the law would lead to masked discrimination in practice. Proving that the law provided a masked mechanism of discrimination would be possible only after the law was implemented, and not at the current stage.

The ruling also determined that: (1) there was nothing to justify proceeding with the petition at the present time, due to the absence of a sufficient evidentiary foundation; (2) the denial of the petition did not rule out the provision of a remedy to a concrete petitioner; (3) it was not possible to identify a chilling effect or a fear of sanctions or a negative change in position; and (4) different mechanisms could oversee the decisions of the acceptance committees. On this basis, the majority opinion concluded that the petitions should be denied, but that the litigants could retain their arguments and present them again in the future. Future proceedings against the constitutionality of the law could be conducted by means of an “indirect attack,” by appealing a decision of an appeals committee in the Court of

Administrative Affairs, or by means of a “direct attack,” by petitioning the High Court with a factual and concrete basis.

In contrast, the minority opinion, led by Justice Joubran, maintained that the petitions were, in fact, ripe for constitutional analysis and that it made sense to annul some of the clauses that had been adopted in the law’s amendment. In his view, the criterion of “suitability for community life” and of “social unsuitability” were not subject to defined standards and thus resulted in “unclear legislation.” The acceptance committees had broad and excessive discretion, and opened the door to unjustified exclusion and hidden discrimination disguised as relevant considerations. The transparency in exercising the discretion of the acceptance committees was extremely limited, as was the judicial supervision. Justice Joubran ruled therefore that despite the prohibition of discrimination as stipulated by the law and the different supervisory mechanisms, the overall selection mechanism as created by the amendment, in practice, established a discriminatory reality. To prove discrimination, Justice Joubran continued, it was not necessary to prove the intent to discriminate, and he was not making this assumption about the Knesset; rather it was enough that the arrangement suspected as being discriminatory created a discriminatory reality. According to Joubran, this reality emerged in part from substantial practical experience (including previous arrangements that had established ongoing practices of exclusion for irrelevant reasons; previous petitions to the court; depositions that had been submitted; and remarks that had been made during meetings of the Knesset’s Constitution, Law, and Justice Committee, and various legislative processes). On this basis, he concluded, the mechanism established by the amendment to the law was discriminatory. In his view, the violation of the constitutional right of equality as reflected in the clauses in the amendment did not meet the conditions of the limitation clause, and therefore the law’s discriminatory criteria should be annulled.

With a slim majority of five (Chief Justice Grunis, Deputy Chief Justice Naor, and Justices Rubinstein, Hayut, and Melzer) to four (Justices Joubran, Arbel, Danziger, and Hendel), the High Court decided to deny the petitions.

The Abraham Fund organization expressed deep disappointment with the High Court ruling, maintaining that “the move gives dangerous, precedential, and legal legitimacy to discrimination against Arabs by allowing the establishment and operation of acceptance committees in community

settlements that can deny the acceptance of Arab candidates into their communities. Alongside the already limited housing options of Arabs in Israel and the difficult housing crisis in Arab communities, this is a disconcerting symbolic measure vis-à-vis the Arab population.<sup>7715</sup>

### **The Knesset Elections Law (Amendment No. 62), 2014 (“The Electoral Threshold Law”)**

The Knesset Elections Law (Amendment No. 62), 2014, which raised the electoral threshold for Knesset elections, began as two private bills that sought, among other things, to raise the electoral threshold from 2 to 4%. The two bills were approved in their preliminary reading and were then passed on to the Knesset’s Constitution, Law, and Justice Committee, which resolved to combine them into one integrated bill. Later, the legislative initiative was again split into two bills: the bill of Basic Law: The Government (Amendment) (Increased Governance), which made changes to the Basic Law itself; and the bill of Knesset Elections Law (Amendment No. 61) (Raising the Electoral Threshold and Increasing Governance), 2013, which included changes to the regular legislation with the aim of raising the electoral threshold to 4% (later, draft Amendment No. 62).<sup>16</sup> On March 3, 2014, the committee approved the bill, but reduced the new electoral threshold from 4 to 3.25% (reflecting four Knesset seats).<sup>17</sup> On March 11, 2014, the Knesset Plenary approved the Knesset Elections Law (Amendment No. 62), 2014.<sup>18</sup>

Two petitions to the High Court attacked the law’s constitutionality (HCJ 3166/14 and HCJ 4857/14).<sup>19</sup> The petitioners’ main argument was that raising the electoral threshold from 2 to 3.25% would result in the exclusion of minority groups, especially the Arab minority. This assessment was based on data regarding past elections, according to which two of the three Arab parties represented in the Knesset were likely to not reach the electoral threshold, and the third Arab party was likely to pass the threshold, but only by a slim margin. The petitioners maintained that raising the electoral threshold hindered the provisions of Section 4 of Basic Law: The Knesset, which established the principles of the electoral system in Israel (primarily the principles of equality and representation, as derived from the principle of proportional representation). The petitioners also argued that raising the electoral threshold harmed the right to dignity as anchored in Basic Law: Human Dignity and Liberty, as well as to the values of the State of Israel as a

Jewish and democratic state. The damage caused by the law, they maintained, did not meet the requirements of the limitation clause—which limits the power of the legislator to violate basic rights—because it was not done in pursuit of a worthy purpose and was not proportional. The petitioners also maintained that the law’s aim was not to increase governability, as the law states, but rather to exclude the Arab sector and new political parties from the Knesset; that the aim of increasing governability could be achieved through other means that were less injurious to the minority; and that the damage caused by the law exceeded its benefit. It was also argued that, in light of their ideological differences, the Arab parties should not be forced to merge with one another, just as other parties should not be forced to undergo such a merger.

The respondents to the petitions—the Knesset and the attorney general—maintained that the petitions should be denied *inter alia* because it had not been proven that raising the electoral threshold would violate the principles of equality and proportional representation as grounded in Section 4 of Basic Law: The Knesset. In their view, the claims of the petitioners were speculative and had failed to consider the effect that changing the electoral threshold would have on the political actors themselves prior to the elections; therefore, it was not a foregone conclusion that raising the electoral threshold would harm the Arab minority or exclude it from the Knesset. They also argued that, even if the principles of equality and proportional representation were violated, the violation would meet the conditions of the limitation clause<sup>20</sup> and that setting the electoral threshold was within the legislator’s broad area of maneuverability. They also argued that the purpose of the law—strengthening governance and increasing coalition stability—was worthy and legitimate, and the petitioners’ claims that the law was intended to exclude the Arab sector from the political system were groundless. They also claimed that the increase in the electoral threshold was proportional and even low in comparison to other proportional representation systems around the world.

In an expanded panel of nine judges, the High Court heard the two petitions together, and, on January 13, 2015, decided to deny them by a majority of eight to one (with Justice Joubran articulating the opposing view).<sup>21</sup> The decision was given without any reasons due to the quickly approaching date of the elections for the twentieth Knesset on March 17, 2015 and the short

time remaining before the deadline for the submission of candidates to the Central Elections Committee in late January. At the same time, the court noted that the denial of the petition did not rule out an additional assault on the law, if warranted by the election results.

The ruling was issued on March 12, 2015, a few days before the election. As noted, the majority opinion, led by the chief justice at the time, Asher Grunis, denied the petitions based on the “ripeness doctrine.”<sup>22</sup> According to Chief Justice Grunis, the factual foundation needed to prove that raising the electoral threshold to 3.25 % violated the principles enshrined in Section 4 of Basic Law: The Knesset had not yet crystalized. This section stipulates that “the Knesset shall be elected by general, national, direct, equal, secret and proportional elections, in accordance with the Knesset Elections Law; this section shall not be changed except by a majority of the members of the Knesset.” In Grunis’ view, the principle of equality in the law anchors the principle of “one person, one vote” and the fundamental “equal opportunities” of the parties participating in the elections. Alongside the principle of equality, the law also anchors the principle of proportional representation, from which the principle of representation is derived. The essential facet of the principle of representation, Grunis maintained, is the aspiration that the parliament will give expression to the different groups that make up society, including minority groups. In his view, the principle of representation derives from a fundamental obligation to maintain an election system that enables the representation of minorities in the Knesset, as their importance in the parliament lies in the need to create checks against the tyranny of the governing majority. On the other side of the divide, however, are competing public interests that justify limiting the possibility of being elected to the parliament. The main interest is the efficiency of government work, or “increasing governance” by decreasing the number of parties represented in the Knesset. For this reason, in many proportional representation and mixed systems, the balancing point between representation and governance in determining an electoral threshold.

According to Chief Justice Grunis, in order to prove that the new electoral threshold violated the principles of equality and representation, it had to be ascertained that raising the electoral threshold constituted a “genuine breach” of these principles, or a “fundamental, substantial deviation” from them. Determining the constitutionality of raising the electoral threshold,

Grunis reasoned, required a factual foundation that would crystalize only after the results of the elections for the twentieth Knesset were known, in part, due to the difficulty of anticipating and assessing ahead of time the full impact of changes in election rules on the behavior of the electorate, the elected, and the political parties. For example, Grunis pointed out that the new rule could result in a different organization of the parties participating in the elections and could cause them to merge as a means of overcoming the electoral threshold (as the three Arab parties ultimately did). It could also lead to changes in voter participation rates and in the very choice of the voters. In addition, “seemingly,” Grunis noted, the electoral threshold is not unusual in comparison to the electoral thresholds that have been set in other countries with proportional representation or mixed electoral systems. Still, Grunis emphasized that his remarks referred to the electoral threshold of 3.25% stipulated in the law under consideration, which was close to the previous threshold; if the electoral threshold had been raised to a relatively high percentage, indeed there would have been reason to thoroughly consider the issue even before the law was implemented in the elections.

Justice Grunis also opined that there was no special reason to decide upon the issue in the absence of a factual foundation. For example, he did not regard the fact that the new electoral threshold would create an incentive for the small parties to run jointly as constitutionally problematic, as running jointly did not negate the ideological differences between them. After all, he reasoned, following the elections the parties would be free to split apart in accordance with the legal guidelines for splitting up parliamentary factions. However, Grunis did not completely rule out the possibility that the results of the elections for the twentieth Knesset could violate the principles of equality and representation and therefore left the door open for a repeated attack on the new electoral threshold prior to the elections for the twenty-first Knesset, “as a safety net, in light of the issue’s importance for safeguarding the democratic values of the State of Israel.”

Justice Joubran, the sole articulator of the minority opinion, maintained that the petition should be upheld and that the law should be annulled. The petition, he maintained, was, in fact, ripe for constitutional decision, in light of “the concrete potential for the exclusion of the minority groups.” This concrete potential for violating a right was sufficient to justify judicial discussion of the petition even before the right had been violated. Based

on data relating to the past three Knesset elections, Justice Joubran showed that the electoral threshold of 2% allowed for the due representation of the Arab minority groups, and raising the threshold to 3.25% had the genuine potential to exclude the Arab parties (two out of three of the parties could find themselves unrepresented in the Knesset as a result of the new electoral threshold). Therefore, Joubran found, the measure was not merely a technical numerical change but rather a fundamental quantum leap. Joubran also considered the constitutionality of raising the electoral threshold in accordance with the “judicial limitation clause” and concluded that all the secondary tests were problematic, particularly the third secondary test of proportionality. In his view, the anticipation that the law would violate the principle of due representation exceeded the expectation that the law would advance its declared purpose of increasing governance. For this reason, Joubran reasoned, the law was not proportional and should therefore be annulled. With regard to the claim that the unification of the Arab Knesset parties into one “joint party” could allay concerns about violating the principle of representation, Justice Joubran held that it was not certain that this process would occur and that it was inappropriate to unify parties with different ideologies, as this constituted “ideological coercion.”

Justice Rubinstein, who supported the majority ruling, extensively addressed the importance of the Arab minority’s representation in the Knesset as part of the Jewish democratic fabric of the State of Israel. The fundamental protection of minorities in the Knesset is extremely important, Rubinstein maintained, and therefore the basic approach of raising the electoral threshold in a manner that could harm minority representation, in comparison to previous elections, “raises questions.” Rubinstein also explained that initially he had been inclined to annul the amendment based on his concern that, at least in some way, its original intent was to exclude the Arab parties, which, in his opinion, could indeed occur, even in the absence of such an intention. Ultimately, however, he decided to support the majority ruling of Chief Justice Grunis, based on his view that it was still premature to examine the law’s constitutionality. Rubinstein compared the disagreement between Chief Justice Grunis and Justice Joubran regarding the electoral threshold to their previous disagreement about the acceptance committees, in which they articulated their suspicions of a hidden agenda to exclude the Arab minority. The previous case also involved a law composed

in language that was seemingly non-discriminatory but that raised questions about its aims. In order to determine what changes, if any, needed to be made to the electoral threshold, Rubinstein maintained that it was necessary to wait and see how things developed based on the new electoral threshold. At this stage, Rubinstein emphasized, the door remained open for another constitutional attack.

Leading up to the elections for the twentieth Knesset, the Arab parties that had been represented in the nineteenth Knesset united into one unified party and ultimately won thirteen Knesset seats,<sup>23</sup> representing an increase of two seats in comparison to their numbers in the previous Knesset.<sup>24</sup>

### **The Citizenship and Entry into Israel Law (Temporary Order), 2003 (“Family Unification”)**

The Citizenship and Entry into Israel Law (Temporary Order), 2003 was enacted within the context of the Second Intifada in September 2000 and was one of a number of measures taken by the Israeli government to contend with the security challenge created by the terror and suicide attacks that characterized the period. As part of these measures, it was decided to limit the entry of inhabitants of Judea, Samaria, and the Gaza Strip into the territory of the State of Israel, based on the assessment of security officials that their entry and free movement within Israel posed a concrete threat to the security of citizens of the state (the data indicated that out of the 130,000 inhabitants of Judea, Samaria, and the Gaza Strip who had been granted legal status in Israel under the terms of “family unification” since 1994, twenty-six had been involved in terrorist attacks and some had even taken part in carrying out the attacks themselves). The original law was published on August 6, 2003, and—aside from a number of specific exceptions—established a sweeping ban on the entry of residents of Judea, Samaria, and the Gaza Strip into Israel to live.<sup>25</sup> The law did not apply to Israelis living in the same areas. Under this law, Israeli citizens were denied the ability to bring spouses, who were residents of Judea, Samaria, and the Gaza Strip, into Israel with them in order to live together and maintain a family life. An amendment to the law in August 2005 made an exception to the prohibitions in relation to spouses and allowed the granting of permits to stay in Israel to husbands who were above thirty-five years old and wives who were above twenty-five years

old, in order to prevent the separation of couples already living legally in Israel. Other exceptions were also made with regard to minors.<sup>26</sup>

The constitutionality of the Citizenship and Entry into Israel Law (Temporary Order), 2003 was the subject of significant public and legal debate. It was also discussed in two significant High Court rulings handed down by an expanded eleven member panel. The first ruling, issued in 2006,<sup>27</sup> determined by a six-to-five majority that the law's sweeping directives were not proportional and therefore were unconstitutional; however, it refrained from annulling the law in order to give the Knesset an opportunity to amend its own legislation.

It should be noted that, as opposed to the state's own declaration before the High Court that the sole purpose of the law was security-related, the petitioners in the first ruling argued that the state actually had a hidden demographic agenda, which was the primary purpose behind the law's enactment. They also claimed that the law intended to curb the growth of the Arab population in Israel by means of marriage to inhabitants of Judea, Samaria, and the Gaza Strip and their entry into Israel, and in this way, ostensibly, to prevent the use of "family unification" as a mechanism of realizing the Palestinian right of return. Evidence of this aim, they maintained, could be found in Knesset debates that took place during the law's enactment. Although all the justices refused to recognize the validity of these claims, some questioned the state's insistence that the underlying considerations of the law were solely security oriented.<sup>28</sup>

Following the first ruling, an amendment to the law was enacted in March 2007.<sup>29</sup> The amendment introduced three primary new elements. The first expanded the applicability of the law beyond inhabitants of Judea, Samaria, and the Gaza Strip to include the residents of enemy countries (Iran, Lebanon, Syria, and Iraq). The second was the establishment of a committee to consider special humanitarian cases (in accordance with the suggestion of numerous justices in the first ruling). At the same time, however, it was stipulated that spousal or parental relations did not, in themselves, constitute a special humanitarian consideration. Third, a "presumption of threat" according to which a resident of Judea, Samaria, and the Gaza Strip could pose a security risk to the State of Israel if "activity that may pose a threat to the security of the state or its citizens is underway in his country of region of residence" was added to those who fell under the law's exceptions

and who were subjected to thorough individual inspections regarding the potential security threat that they posed.

The court delivered the second ruling in 2012<sup>30</sup> and, in practice, overturned the fundamental majority opinion in the first ruling. By a slim margin of six to five, the court ruled that the law met the conditions of proportionality and was therefore constitutional. The major question considered by the High Court was whether the law's sweeping prohibition violated an Israeli spouse's constitutional right to equality and family life in Israel, stemming from his or her constitutional right to dignity anchored in the Basic Law: Human Dignity and Liberty. And if it did, was the violation of this right justified and consistent with the conditions of the limitation clause, and therefore constitutional?

In the first ruling,<sup>31</sup> the justices were divided over the question of whether an Israeli spouse's right to family life also included the right to bring his or her foreign spouse to Israel and live as a family in the country. A large majority of the justices determined that this right was included in an Israeli citizen's right to family life and therefore could be classified as a right of human dignity. On this basis, five justices, Chief Justice Barak and Justices Beinisch, Joubbran, Hayut, and Procaccia, found the law in violation of Israeli citizens' constitutional right to family life by denying them the possibility of establishing their family in Israel. It was also determined that the law did violate Israeli citizens' constitutional right to equality, as the decisive majority of Israelis married to Palestinians from Judea, Samaria, and the Gaza Strip were Arab citizens of Israel. In this manner, the violation applied mainly to Arab Israelis, as it negated their right—and only theirs—to live as a family in Israel with their spouses from Judea, Samaria, and the Gaza Strip. The majority also concluded that this was a discriminatory outcome based on an irrelevant distinction and therefore violated their constitutional right to equality.

With regard to the question of whether the violation to the rights of Arab citizens of Israel met the conditions of the limitation clause, the five justices found that although the law was intended to fulfill an appropriate (security-oriented) purpose, it did not meet the conditions of proportionality in general and of proportionality in its "narrow sense." The justices, who advocated for the assessment of individual threat based on probability, maintained that the appropriate comparison was not between life and quality of life, but "rather

the question is what is the probability that human life will be harmed if we continue the individual check, in comparison to the likelihood that human life will be harmed if we change to a blanket prohibition, and whether this additional likelihood is comparable to the certain increase thereby caused to the violation of the rights of spouses who are citizens of the state.”<sup>32</sup>As far as the justices were concerned, the increased security provided by the sweeping prohibition, in comparison to the alternative of detailed individual checks, did not outweigh the extent of the violation of the constitutional rights of Israel’s Arab citizens. On this basis, the five justices determined that the law was unconstitutional and should therefore be annulled.

Five other justices, then Deputy Chief Justice Mishael Cheshin, and Justices Grunis, Naor, Adiel, and Rivlin, found that the law was constitutional and that the petition should be denied. Some rejected the broad applicability of the right to family life as an element of human dignity that also included the right of Israeli spouses to bring their foreign spouses with them to Israel. At the same time, the five justices concluded that even if it could be assumed that the constitutional rights of Israel’s Arab citizens had been violated, the violation met the conditions of the limitation clause, particularly the condition of proportionality, and was therefore constitutional. The justices that advocated a collective assessment of danger maintained that obligating the state to engage in individual checks of residents of Judea, Samaria, and the Gaza Strip would not effectively ensure public security. They argued that the question was not one of probabilities but rather certain outcomes, as explained by Justice Grunis:

The figures that were presented to us indicate that twenty-six Palestinian spouses who entered Israel lawfully by virtue of the family reunification process were involved in terror attacks. In those attacks, dozens of people were killed and many others were injured. It should be noted that those twenty-six individuals received a permit to enter Israel notwithstanding the security check that they underwent. This means that we have before us proof that the individual security check does not guarantee that it is possible to distinguish fully between those persons who constitute a security risk and others whose entry into Israel does not constitute a risk. On the basis of these figures, I believe we can conclude with certainty that the entry of thousands of additional spouses will result in harm

to human life, even if a security check is carried out with regard to each individual . . . The equation is not made up, therefore, of a probability on one side and a certainty on the other, but of two certainties: harm to human life as opposed to harm to family life.<sup>33</sup>

Similarly, Deputy Chief Justice Emeritus Cheshin explained that in the balancing act between reducing the killing and safeguarding the lives of all citizens of Israel on one hand and the damage caused to some Arab citizens of the state who desire to live with their spouses in Israel on the other, the benefit outweighed the damage. Justice Cheshin also invoked the doctrine of “enemy subjects” vis-à-vis the Palestinian inhabitants of the occupied territories and ruled that in the event of war, all states are authorized to deny entry to the subjects of enemies of the state (regardless of the actual danger they pose), even if they are married to citizens of the state. In his view, “the Palestinian inhabitants of the region are enemy subjects and, as such, are a group that poses a risk to the citizens and inhabitants of Israel.” Most of the justices did not accept the doctrine of enemy subjects and the ruling was not based on it but rather on the danger posed by the Palestinian inhabitants of the territories.

Justice Levy, who tipped the scale in favor of denying the petitions in order to allow the Knesset to formulate an improved arrangement, determined that due to the violation of the constitutional rights of Arab citizens of Israel, from a fundamental perspective, the law’s sweeping prohibition had to be replaced with an arrangement that could stand up to a thorough examination. Levy also stressed that without the necessary changes, it was doubtful whether the law would successfully stand up to judicial review in the future. Thus, it was decided in the first ruling by a majority of six to five to deny the petitions.

The result of the ruling and the issue of “family reunification” sparked stormy debates both throughout the Israeli public sphere and the academic one.<sup>34</sup> As a result of the ruling, the law was amended in March 2007.<sup>35</sup> Following the amendment, another petition was submitted to the High Court in which the court was requested to reconsider the law’s constitutionality five years after the first ruling had been issued. The second ruling,<sup>36</sup> in which four of the justices who had served on the previous panel were replaced by other justices, overturned the fundamental majority opinion of the first ruling, which, as noted, had found the law to be unconstitutional. By a slim

majority of six (Deputy Chief Justice Eliezer Rivlin and Justices Grunis, Rubinstein, Melzer, Naor, and Hendel) to five (Chief Justice Dorit Beinisch and Justices Levy, Arbel, Joubran, and Hayut), it was determined that despite the violation of the constitutional rights of some Israeli citizens, the law met the requirements of the limitation clause and was therefore constitutional.

Although two of the majority justices accepted the claim that the law violated constitutional rights, all six of the majority justices determined that in the main arena of dispute regarding the law's proportionality and especially the test in the narrowest sense, that the security interest was paramount. This stemmed from the fact that the individual security check (in itself problematic) did not significantly eliminate the risk posed to the security of the citizens of Israel, and that the law's benefit, with its sweeping prohibition, outweighed the damage suffered by some citizens of Israel. In this context, it was emphasized that the ruling did not totally negate the right of Israelis to bring their foreign spouses to Israel to live and to establish a family, but only with a limited and specified "temporary delay" until they met the law's age requirements. Therefore, by a majority of six to five, the law was found to be constitutional.

At the conclusion of her opinion, Chief Justice Beinisch effectively summed up the problematic nature of such difficult cases, which demand a proper balancing between human rights and national security:

The disagreement between the minority and majority justices revolves around one of the most difficult questions in our lives as a state that is fighting against terrorism and that has been contending with security problems throughout its entire existence, and that, at the same time, works to safeguard its democratic character. The question before us, therefore, was what are the margins of security that we can take upon ourselves, and what are the means we must employ to protect our security while minimizing the injury to human rights to the extent that is essential for protecting the state and the lives of its citizens? Despite our disagreements, we all recognize the importance of these principles and our quest for a point of balance, which led each of us to our conclusions.<sup>37</sup>

## **Benefits Based on Military Service and Bill of Rights of Contributors to the State**

Military service is one of the most complex issues in Israeli society with regard to both the country's Jewish ultra-Orthodox minority and the Arab minority. As noted above,<sup>38</sup> military service in Israel is a central component of the concept of equal citizenship; the civic cohesion of all inhabitants of the country; identification with the state; and the sense of a shared destiny that is critical for maintaining a strong and stable democracy. Refraining from military service could lead to undermining the institution of citizenship by those who do not serve, which thereby affects the discourse of rights and obligations of citizens of the state. This raises the question of the constitutionality of providing economic benefits and other remunerations to those who engage in military/national service.

Most of the arrangements that provide benefits to those who have served in the army were anchored in the Discharged Soldiers Law, 1984,<sup>39</sup> which extends numerous benefits to discharged soldiers, including access to public resources, such as priority in hiring and in acceptance to institutions of higher education. In 1994, this law was replaced by the Absorption of Discharged Soldiers Law, 1994,<sup>40</sup> which annulled the above-mentioned discriminatory benefits<sup>41</sup> and adopted a series of financial benefits by establishing a fund for the absorption of the discharged soldier, opening deposit accounts, and granting benefits to discharged soldiers using funds from these accounts.

Over the years, the government has started using military service as a criterion for the provision of additional benefits beyond the arrangements established by law, and this has led to the submission of legal petitions claiming discrimination. Among other issues, these petitions raised the question of whether the arrangement established by the law is an exclusive arrangement, or, in other words, whether the government is authorized to provide benefits to discharged soldiers beyond that which is prescribed by this law. The HCJ petition *Gross v. Ministry of Education and Culture* considered the constitutionality of a program of study that gave full government funding for preparation for matriculation exams among discharged soldiers who were classified as “worthy of advancement,” which was not under the Discharged Soldiers Law but rather the Budget Law and the Budget Regulations, and in accordance with a memorandum issued by the director-general of the Ministry of Education.<sup>42</sup> In this decision, Justice Yaakov Melitz found that the law did

not create “a negative arrangement” that precluded the provision of benefits beyond that which was established by law and wrote as follows, “It seems to me that the Law established minimum arrangements for discharged soldiers but does not preclude the government from giving more to a portion of the population of discharged soldiers that is more worthy of advancement than another group. The Knesset is authorized to budget additional funds for the purpose of providing discharged soldiers with a high school education, beyond that which is provided in the Discharged Soldiers Law . . . Therefore, in the case at hand, we cannot say that the Discharged Soldiers Law created an exclusive arrangement.”<sup>43</sup>

This position was also accepted by then High Court Chief Justice Barak in the case *Bishara v. Minister of Construction and Housing*,<sup>44</sup> which discussed the government’s authority to grant additional benefits to discharged soldiers under the Housing Loans Law. In his opinion, Chief Justice Barak quoted Melitz’s above-mentioned position in *Gross v. Ministry of Education and Culture*, and noted:

I find this approach acceptable. The petitioners’ position goes too far. They are asking us to rule that the Absorption of Discharged Soldiers Law sought to create a ‘negative arrangement’ and to deny the executive branch’s authority to stipulate additional benefits for discharged soldiers within the framework of other laws. However, no basis for this approach can be found, in the wording of the law itself or in its purpose, as reflected in its implementation and its stages of legislation . . . The conclusion, therefore, must be that there is nothing in principle precluding the provision of additional benefits to discharged soldiers within the framework of other laws, as long as the criterion of military service is used in a manner that is justified under the circumstances in question.<sup>45</sup>

Another question relating to the issue of authority is whether economic and other benefits for discharged soldiers must be grounded in Knesset legislation, or whether they can also be provided by the government based on its economic powers. In the case *Higher Monitoring Committee for Arab Affairs in Israel v. Prime Minister of Israel*,<sup>46</sup> the High Court annulled a government resolution that had declared “National Priority Areas” and granted large-scale financial and other benefits to the inhabitants of these areas. Deputy Chief Justice Mishael Cheshin ruled that the government was

not authorized under its residual powers (based on Section 32 of Basic Law: The Government) to decide as it did, as such a comprehensive provision of benefits was a “primary arrangement” requiring Knesset legislation, especially when the resolution violated human rights (in this case, it violated the right to equality, as only a limited number of small Arab communities were included in the hundreds of communities designated). In the aforementioned *Bishara v. Minister of Construction and Housing* decision, in an incidental remark, Chief Justice Barak raised the question of whether the executive branch was authorized to allocate additional benefits to discharged soldiers under the economic powers of the governing administration, as opposed to under the regular authority of primary legislation. However, because this question raised complex issues, the court found it unnecessary to address it as part of the discussion as the benefits in the case discussed in the ruling were granted by means of primary legislation (the Housing Loan Law). Nonetheless, on this issue, Barak referred to Deputy Chief Justice Cheshin’s opinion in the High Court case, *The Higher Monitoring Committee for Arab Affairs in Israel v. Prime Minister of Israel*.

In addition to the two broader questions discussed above, the major question at the basis of the legality of benefits for discharged soldiers is whether the criterion of military service in the provision of benefits is a relevant criterion rather a discriminatory one. The Haifa District Court’s ruling in the matter of *Na’amneh v. University of Haifa*<sup>47</sup> concerns the University of Haifa’s decision to include military or national service as one of the criteria for allocating dormitory housing. In his ruling, District Court Judge Ron Sokol upheld the petition regarding the charge of discrimination and ordered the university to not include students’ military or national service as a criterion. Sokol accepted the university’s position that economic considerations were at the basis for including the criterion, and that its intention was to assist students who had not earned a salary during their military service. Still, he maintained, it was also necessary to consider whether military service alone determined an economic status that justified priority in the allocation of dormitory housing. As far as he was concerned, such a sweeping assumption should not be accepted. “Military or national service itself,” he concluded, “appears to be an irrelevant consideration in terms of the economic status of the applicant, and the situation of each and every applicant must be examined separately.”<sup>48</sup> Under these circumstances, Sokol ruled, adding

the criterion of military service discriminated against the Arabs of Israel (who are not drafted into the military), and the effect of the criterion is a discriminatory one.

Approximately four months after the above ruling, the High Court issued its ruling in *Bishara v. Minister of Construction and Housing* regarding benefits under the authority of the Housing Loans Law, which, in some respects, overturned the fundamental decision of the district court. This petition also raised the claim of discrimination in the existence of the criterion of military service among the rules of eligibility for loans to those who lacked housing. According to Chief Justice Barak, the criteria itself was not invalid, and the manner in which the criteria had been used was legal. “The criterion of military or national service should not be regarded as a discriminatory criterion under the circumstances of the case under discussion,” he wrote.<sup>49</sup> In his perspective, the criterion of military service was relevant for the social purpose of the Housing Loan Law, as the inability to work and earn a living during military or national service affected the economic situation of those seeking loans. On this basis, the court saw no reason to intervene in the rules of eligibility as determined by law.

In light of these decisions, the Absorption of Discharged Soldiers Law was amended in 2008<sup>50</sup> to explicitly state that institutions of higher education were authorized to stipulate an applicant’s status as a discharged soldier as one criterion in determining eligibility for dormitory housing.

To sum up this brief survey of the issue, High Court case law has permitted the provision of additional economic benefits to discharged soldiers beyond the arrangements established by the Absorption of Discharged Soldiers Law. Large-scale benefits must be grounded in Knesset legislation, and use of the criterion of past military service must be relevant and reasonable with regard to the circumstances in question. Against this background, efforts have been made to enact a law to regulate the benefits enjoyed by discharged soldiers.

***Bill: The Contributors to the State, 2013***

The bill: Contributors to the State, 2013, proposed by Knesset Member Yariv Levin, seeks to legislate the special status of “contributors to the state”—meaning, those who have engaged in military, civilian, or national service—and provide them with benefits from public resources, such as the attainment of employment (including in the private sector); the receipt of

services in public places; the provision of housing in student dormitories; and tenders for the allocation of state land for housing. According to the bill's explanatory note, the aim of the law is "to ensure that those who contribute to the state receive the rights to which they are entitled."

The first version of the draft law (P/19/275), which was submitted to the Knesset on March 13, 2013, was broader and more injurious than its present incarnation. It contained, *inter alia*, explicit reference to providing preferential treatment to one who contributes to the state by means of the public resources referred to above. It also contained a section entitled "permitted preference," which stated that "regardless of the substance of any law, giving preferential treatment to a person due to their status as a contributor to the state—including precedence in hiring, wages, the provision of service, and the receipt of services—shall not be considered prohibited discrimination." The bill also defined the population of contributors to the state as a "designated population" for the purpose of the allocation of land for housing and contained an explicit section about giving preference to those in civil service appointments.

The bill won the support of the Ministerial Committee for Legislative Affairs on June 17, 2013.<sup>51</sup> In the discussion, the attorney general articulated his opposition to the bill and presented its constitutional problems.<sup>52</sup> According to his analysis, the bill violated the right to equality under Basic Law: Human Dignity and Liberty in a manner that did not meet the requirements of the limitation clause. He agreed that military, national, and civil service had great importance, and those performing it indeed were entitled to respect and special recognition from the State of Israel, which should be expressed in the provision of financial remuneration in accordance with the principles of relevance and proportionality. Nonetheless, providing those who contribute to the state with preferential access to limited resources (such as land, dormitory housing, and so forth) was fraught with weighty constitutional concerns, as the allocation of such resources to one person necessarily came at the expense of another, and thus the importance of their being distributed among all citizens of the state in an equal and rational manner. Moreover, the attorney general also maintained that the law's infringement of equality was directed against groups in the population that already had suffered from deep discrimination, and that such an infringement of their

right to equality engendered a sense of insult and humiliation to the point of violating human dignity.

The bill was the subject of severe criticism,<sup>53</sup> in part, due to the claims that it sought to exclude and annul the right to equality of those who did not serve in the army, primarily the Arab citizens of Israel, whom the state had decided willingly to grant exemption from service. Critics also claimed that the draft law sought to create institutional discrimination in hiring (including in the private sector), allocating land, and providing services in public places, thereby transforming military service into a key factor in the division of rights and public resources. They also argued that the bill established a mechanism of affirmative action within the civil service for those who had served in the army, when this mechanism was actually intended for a different purpose—to rectify the inequalities against weakened and discriminated groups in society and to facilitate their due representation. The majority of those who serve in the army are neither deprived nor discriminated against and are amply represented in the civil service, and for this reason, the critics claimed, establishing a mechanism of affirmative action for their benefit was not justified.

As a result of the opposition of the Justice Ministry to the original bill and in dialogue with the legal advisor of the Knesset, a number of changes were made to the bill to reduce the scope of the injurious arrangements.<sup>54</sup> The definition of a “contributor to the state” was modified so that it did not apply to the entire population of those serving at any given time but rather to individuals during the seven years following their date of discharge from service; anyone who had served in the reserves for no less than fourteen days in the course of the preceding year; and anyone whose application for national or civilian service had been rejected at some point in the preceding seven years. In addition, the automatic precedence given to contributors to the state as formulated in the original bill was revised, and instead, the fact that an individual had contributed to the state could be taken into consideration, for example, in hiring or providing dormitory housing. Changes were also made to the benefit awarded to the contributor to the state in public tenders for the allocation of land for housing. A number of problematic elements were also omitted, including the section giving affirmative action to contributors to the state in civil service appointments, and the section defining contributors to

the state as a “designated population” for the purposes of giving precedence in the allocation of land.

The revised version of the bill Rights of Contributors to the State, 2013 (P/19/1596) was presented to the Knesset on July 29, 2013<sup>55</sup> and was also the subject of criticism.<sup>56</sup> In the discussion of the Ministerial Committee for Legislative Affairs about the bill, the attorney general once again articulated his opposition,<sup>57</sup> maintaining that some parts of the bill disproportionately violated the constitutional right to equality and human dignity and required adjustments. He argued that distinguishing between the population who serves in the army and the one who does not, in the current reality, could result in consequential discrimination on the grounds of religion, race, and nationality in the areas addressed by the bill. Although the definition of “contributors to the state” included the new category of individuals who sought to serve but were rejected, this category was actually inconsequential due to the absence of a central agency that could authorize as needed that they had been rejected from service. The attorney general also explained that although those serving were certainly entitled to state recognition and respect and compensation for the financial loss they incurred during their military service, the benefits established by the bill were not financial benefits given by the state to compensate for the financial loss incurred; rather, they were benefits that would give increased access to limited public and private resources that were supposed to be divided among all citizens in an equal and rational manner. From this perspective, the connection between the benefits in the bill and the unique characteristics of the population of those serving was questionable and did not justify distinguishing between them and the rest of the population.

Despite the opposition of then Justice Minister Tzipi Livni and the reservations of the attorney general, the revised bill of Knesset member Yariv Levin was approved by the Ministerial Committee on Legislative Affairs.<sup>58</sup> It also passed its preliminary reading in the Knesset on October 30, 2013.<sup>59</sup>

### **Bill of Basic Law: Israel as the Nation-State of the Jewish People (“The Nation Law”)**

Both the Knesset and the Israeli public has engaged with “the Nation Law” for a number of years now. Indeed, the legislation was one of the factors that resulted in the disbanding of the Israeli government and the nineteenth

Knesset. The first version of “the Nation Law” bill (or, to use its full name, bill of “Basic Law: Israel as the Nation-State of the Jewish People”) was submitted to the eighteenth Knesset on August 3, 2011 by Knesset member Avi Dichter (Kadima) and a large number of Knesset members from different political factions.<sup>60</sup> This bill was the foundation upon which the later bills were based. Its first section dealt with “the Jewish State” and stated that the State of Israel is the national home of the Jewish people, in which it is realizing its desire for self-determination. This section also defined the right to realize national self-determination in the State of Israel as being unique to the Jewish people. The second section of the bill dealt with the issue of a “democratic state” and stated that the State of Israel “possesses a democratic system of government.” Other sections (most of which are anchored in other laws) dealt with different aspects of the Jewish character of the state, such as state symbols (the national anthem, the flag, and the state emblem); Independence Day, official days of commemoration, and official holidays; Jewish law as a source of inspiration for the Israeli legislator and a source for filling legal lacunae; anchoring the principle of the Law of Return; and establishing the Hebrew language as the official language of the state while the Arabic language is defined as having a “special status.” The bill referred to the state’s obligation to actively achieve the ingathering of the exiles and Jewish settlement. It also addressed the state’s obligation to actively preserve the cultural and historical heritage of the Jewish people and to further cultivate it in Israel and in the diaspora, whereas the state’s obligation vis-à-vis other cultures was not to prevent every resident of the country from taking action to preserve their culture, heritage, language, or identity. In addition, the bill also addressed the segregation of community settlements and stipulated that the state was authorized to allow a group, including members of the same religion or the same nationality, to maintain a separate community settlement. Finally, the bill contained a stringent provision that the Basic Law shall not be amended except by a basic law approved by a majority of Knesset members.

According to the advocates of the bill, the major reason for seeking constitutional grounding for the Jewish character of the state was the ongoing sense of a shifting balance and an erosion of the social, educational, academic, and legal support of the state’s Jewish character and of justifying the state’s existence as a nation-state and instead favoring the liberal-democratic,

civilian, and neutral character of the state and expanding the protection of human rights. This law, they maintained, would strengthen public recognition and support of the state's Jewish character and would help thwart efforts to delegitimize its image and character, from both within Israel and abroad. According to the bill's explanatory note, "despite the broad agreement among the Israeli public regarding the State of Israel's definition as a Jewish state, its character as the nation-state of the Jewish people has never been grounded in a basic law of the state." For this reason, it continued, "the necessity of Basic Law: Israel as the Nation-State of the Jewish People becomes even more important, especially in times when some do seek to annul the Jewish people's right to a national home in its land and the recognition of the State of Israel as the nation-state of the Jewish people."

Despite the broad support that the bill initially enjoyed in the Knesset, criticism soon was voiced about the necessity of enacting the Basic Law, and more stridently, about the specific arrangements it contained, as opposed to the intentional absence of other arrangements.<sup>61</sup> For example, it was argued that the draft law had a detrimental impact on the integration of the two components of Israel's image as a "Jewish and democratic state" and gave precedence to its Jewish character at the expense of its democratic character, which the law reduced to the "governing regime" only without relating to or providing any anchoring of the principles of democracy, most importantly the principle of equality. Critics also argued that limiting the right to self-determination in Israel to the Jewish people alone constituted discrimination and racism against the state's Arab minority. Critics also leveled claims that the bill violated the rights of minorities in Israel and the Arab minority in particular and negated their collective rights, which, they argued, terminated the status of the Arabic language as an official language and assigned it the lower standing of "special status."<sup>62</sup> Similarly, charges of discrimination were made in the allocation of state resources for preserving and cultivating the Jewish heritage in Israel and the diaspora, when a parallel obligation did not exist with regard to the cultures of the country's non-Jewish populations (and, according to some, with regard to different streams of Judaism),<sup>63</sup> for which each individual was allowed to preserve their own heritage and culture. Critics also pointed out that the bill provided grounds for discrimination in the selection of new residents for community settlements and, in practice, expressed a policy of segregation

and the exclusion of minority groups. In examining all the provisions of the bill, it was claimed that the bill was neither effective nor necessary, and that hidden within it was a real danger of increasing the alienation of different minority groups from the state.

The criticism of the bill led to a decrease in its support, and it was therefore not submitted for approval of the Ministerial Committee for Legislative Affairs but rather shelved under the pressure of Kadima chairperson Tzipi Livni. In the nineteenth Knesset, similar versions of a bill were proposed for discussion by Knesset members Ayelet Shaked (HaBeit HaYehudi), Yariv Levin (Likud), and Robert Ilatov (Yisrael Beiteinu);<sup>64</sup> by Ze'ev Elkin (Likud);<sup>65</sup> by Miri Regev (Likud);<sup>66</sup> and by the Kadima party (whose draft law was more limited. In addition to anchoring the principle of the Law of Return and the symbols of the state, it also defined Israel as a “Jewish and democratic” state and sought to anchor the Declaration of the Establishment of Israel, with an emphasis on the principle of equality).<sup>67</sup> In August 2013, against the background of the disagreements surrounding the Nation Law, Justice Minister Tzipi Livni appointed Prof. Ruth Gavison to consider the best way to “formulate a constitutional arrangement addressing the character of the State of Israel as such, and to anchor the components of its identity in a balanced manner and that integrates different Jewish and democratic values.”<sup>68</sup> On November 19, 2014, Prof. Gavison’s recommendations were submitted to Justice Minister Livni.<sup>69</sup>

Gavison explained her objection to separate constitutional grounding for the vision in general, and to the Nation Law (which anchored only one component of the vision—the state’s Jewish character) in particular, in their current state. According to Gavison, Israel is a nation-state whose vision consists of three elements: Judaism, democracy, and human rights. The strength of this vision lies in the fact that it is ambiguous and limited, but, at the same time, it proposes a basic outline that can serve as a compass for Israeli society. Gavison claimed that these components—the core of the vision—have broad consensus within the Israeli public, with the exception of the Jewish component, which is difficult for the Arab minority to accept.<sup>70</sup> Most of the disputes over it relate not to its essence but rather to its different interpretations and their implications for real life. As Israel does not have a constitution, the different bills are efforts to anchor the core of the vision or at least parts of it. According to Prof. Gavison, the core of a state’s vision

is usually expressed in the introductory section of a constitution and is distinguished from the constitutional arrangements that give it meaning. In this way, questions of vision, identity, meaning, and worldview are not legal questions and should therefore not be decided by law or by the courts using a discourse of rights but rather through public and social discourse. Attempts to separately anchor the vision, she maintained, would shift the arena of disagreement from that of the public and political to the courts, increase uncertainty, and turn the vision itself—which is agreed upon—into the focus of disagreement. In this way, the Nation Law could disturb the balance that is essential to preserving the vision as a whole.

Gavison also maintained that the Nation Law sought at the level of the Basic Law to anchor arrangements that were not part of the vision's core and in doing so could reduce the broad consensus regarding the Jewish component at the vision's core. With regard to enshrining the Declaration of the Establishment of Israel in a basic law, Prof. Gavison held that the Declaration of Independence reflects the vision as a whole in the eyes of the country's founders—who intentionally neither legislated it nor imbued it with binding legal authority—and enjoys broad public consensus. She maintained that it is preferable to leave it as is and not subject it to disagreements that might emerge from the process of transforming it into a basic law within a political and social context that differs completely from when it was initially adopted. In light of all this, Gavison recommended to refrain from measures to constitutionally anchor some or all of the core vision at this point in time. However, in the event that a process of constitutional anchoring is pursued, the law should be a "Law of Vision" as opposed to a "Law of Nation," and that the law and its enactment should reflect the scope and importance of the task. The outcome, she opined, should produce cohesion and unity as opposed to division; ensure that the state's vision emerges as stronger, as opposed to weaker, from the legislative process; strengthen civil unity; preserve Jewish unity in Israel and around the world; and expresses a fair, generous, and accommodating approach to members of the Arab minority.

Following the failure of the negotiations with the Palestinians in May 2014 (when one of the conditions advanced by Prime Minister Netanyahu was recognition of the State of Israel as a Jewish state), the prime minister demonstrated an increased willingness to move forward with enacting the Nation Law. On November 16, 2014, Knesset Member Ze'ev Elkin's bill

was presented to the Ministerial Committee for Legislative Affairs. Because it enjoyed the support of a majority in the ministerial committee, the justice minister decided to delay the bill's discussion without a vote. In response, the following week (November 23, 2014), the prime minister submitted the bills of Ze'ev Elkin and of Ayelet Shaked and Yariv Levin for government approval and for their support during a preliminary reading, agreeing that the bills would subsequently be attached to a government bill that the prime minister would submit in accordance with an outline of principles that he had formulated and that would be prepared in coordination with the attorney general.<sup>71</sup> As a result of the severe crisis in the coalition, Prime Minister Netanyahu dismissed Justice Minister Livni and Finance Minister Lapid on December 2, 2014 in a measure that ultimately led to early elections and the disbanding of the nineteenth Knesset. The issue of legislation of the Nation Law and its constitutionality is almost certainly expected to resume during the tenure of the twentieth Knesset.



## Chapter 8: Manifestations of Hatred and Racism

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### *The Or Commission*

We are not of the opinion that the events constitute a point of no return in the relations between the two sectors. Beyond the severe sentiments articulated by both sides on more than one occasion, each side has a clear and firm interest in stability and cooperation. Ultimately, the October events have actually proven that the two societies are mutually dependent and demonstrated the dangers inherent in polarization and conflict . . . It is necessary to strive to take active steps to ensure the peaceful coexistence of Jews and Arabs in this country, thereby ensuring that events similar to those that occurred in October 2000 will not recur. Jews and Arabs living alongside one another is a fact of life, and the two sides have only one practical option for maintaining this way of life: coexistence with mutual respect.<sup>1</sup>

### **“The Lost Decade”**

Prof. Sammy Smooha has concluded that the years following the violent events of October 2000 constituted a “lost decade” with regard to Jewish-Arab relations. Based on his annual monitoring of Jewish-Arab relations in Israel, he enumerated various events that resulted in a deepening alienation and radicalization of positions within the Arab population. These events included the suppression of the Second Intifada; the punishment of the young Arabs who engaged in rioting during the events of October 2000, as opposed to the lack of legal action against the police personnel who shot and killed Arab demonstrators; the Second Lebanon War and the suffering as a result within the Arab population; and the Israeli military operations against Gaza and the siege on the region. To this list, Smooha also added the Yisrael Beiteinu party’s “no citizenship without allegiance” campaign; the Knesset’s anti-Arab legislation; the efforts to advance the regulation forced

upon the Bedouin in the Negev desert; the rise in Arab crime and violence; and the increased economic hardship of Arab society in Israel. Prof. Smooha found that the percentage of Arabs who rejected the State of Israel's right to exist—which stood at 20.5% in 1976, 6.8% in 1995 (during the term of Rabin's second government), and 11.2% in 2003—had risen to 24.5% in 2012. During the same year, 82.2% of Israel's Arabs blamed the Jews for the Nakba (an increase of 65.3% since 2003), and 47.9% had at some point participated in events to commemorate it (an increase of 12.9% since 2003). The number of individuals in Arab society holding compromising and adapting views had decreased during the previous decade, and the Arab public felt alienated and threatened. In 2012, 55% of the Arabs in Israel indicated that as Israeli citizens, they felt foreign and rejected in Israel (as opposed to 54.3% in 2003). 62.4% felt that they could not trust most Jews (versus 55.6% in 2003), 77.8% feared a serious violation of their basic rights (as opposed to 71.1% in 2003), and 68% feared cross-border transfer (compared to 55.4 % in 2003).<sup>2</sup>

Prof. Smooha concluded that contrary to the radicalization in Arab views, no similar change had been discerned in Jewish positions over the years. According to his analysis, the Jewish majority in Israel has remained determined to safeguard the Jewish-Zionist character of the state but has not expressed a desire to detach from the Arab population and has recognized the Arabs' right to live in the country as a minority, despite fears of the dangers involved. In 2012, 75% of Jewish Israelis agreed that the Arabs had the right to live in the country as a minority with full civil rights (up from 72.6% in 2003), and most recognized that the Arabs were entitled to collective rights, including the power to run their own religious, educational, and cultural affairs. A significant portion of the Jewish population has been willing to have Arabs as neighbors (45.7% in 2012 compared to 34.5% in 2003), as students in Hebrew-speaking schools (54.8% in 2012 as opposed to 51.5% in 2003), and as Arab parties in governing coalitions (52.8% in 2012 compared to 47.4% in 2003). At the same time, the findings show that in 2012, a majority of the Jewish Israelis (64.9%) expressed concern that the country's Arabs constituted a threat to the state due to their struggle to change its Jewish character; more than one-quarter (27.9%) supported terminating the Arabs' right to vote in Knesset elections; and a decisive majority (78.2%) agreed that decisions regarding the character and borders

of the state must be supported by a Jewish majority. Moreover, a majority of Jews (69.4%) believed that an Arab citizen who classifies himself or herself as a “Palestinian Arab in Israel” cannot be loyal to the state or to state laws.

Prof. Smootha’s findings indicate a willingness of some Jews to take significant measures so that the Arabs feel that Israel is their country and that they are equal citizens, as long as these measures do not have a detrimental impact on state security, dilute the state’s Jewish character, or require affirmative action for Arabs. For example, in 2012, 51.9% of the Jews surveyed indicated that they would agree with the state’s recognizing of the unrecognized Arab communities. 54.9% indicated that they would agree to the enactment of a law granting Arabs due representation in all state institutions and other public bodies, and 55.9% indicated that they would agree to the enactment of a law stipulating that the Arabs receive their relative proportion of the state budget. At the same time, however, recent years have witnessed acts of racism and hatred toward Arabs, as well as acts aimed at harming Arabs, known as “price tag” actions.

### **Manifestations of Hatred and Racism Toward Arabs**

Since 2008, the Coalition against Racism in Israel has been mapping incidents of social discrimination and racism against Arabs and issuing reports, which enable this phenomenon to be quantified. The data does not reflect all the acts of racism in the country but rather documents the instances that are covered by the media. The high percentage of reported events relating to discrimination against Arabs (accounting for more than 70% of the report published in 2014) reveal that discrimination in Israel is deeply rooted in the Jewish-Arab divide and the Israeli-Palestinian conflict. The data indicates that discrimination against the Arab population in Israel fluctuates, and that the number of instances reported rises and falls over the years. Still, when we draw a regressive line over the past decade we find that the situation has deteriorated, with an increase in acts of racism against Arabs in state institutions and businesses by Israeli security forces and individuals.

In addition to the number of acts that have occurred, there has also been a change in their character. The Lehava organization makes use of the porous boundaries of freedom of expression to disseminate messages of incitement, chauvinism, and racism and encourages young Israelis to carry out violent crimes and acts of terrorism on nationalist grounds. Lehava’s initiatives

have included the “rebbetzins’ letter” of 2010, signed by twenty-seven wives of rabbis who called upon Jewish women to “not date non-Jews, not work with them, and not engage in national service with them”; the “rabbis’ letter,” which called on apartment owners to refrain from renting to Arabs, while Lehava even operated a hot-line to inform on individuals who sold apartments to Arabs (known as the “*malshinon*,” a made-up term indicating a device used to inform on others); the group’s “commando” unit, which patrols mixed neighborhoods and attempts to thwart contact between Arab men and Jewish women;<sup>3</sup> the transporting of right-wing activists to mixed weddings in an effort to “save daughters of the people of Israel who have been enticed into a relationship with a non-Jew”;<sup>4</sup> mapping stores that employ Arabs; and awarding “*kashrut*” (kosher) certificates to businesses that refuse to employ Arabs.<sup>5</sup>

**Table 3: Incidents of Racism against Arabs, 2008–2013 (number of reports in the media)**

<b>Incidents of Racism (number of reports in the media)</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Racism and incitement against Arabs by elected officials and public opinion leaders	27	29	26	97	27	45
Racism against Arabs by state institutions, businesses, and private and public organizations					64	125
Racism against Arabs by individuals	16	70	91	68	23	63
Racism against Arabs by security forces	6	17	15	28	18	17

Source: Coalition against Racism in Israel, *The Racism Report 2014*.

### ***“Death to the Arabs”***

The expletive “death to the Arabs” has been voiced against Arabs in Israel during events that are national in nature, or during demonstrations or mass disturbances, and sometimes has been accompanied by acts of violence and graffiti. It is particularly common on the soccer field, where it is directed against teams from the Arab sector or against Arab players on Jewish teams. The expletive constitutes incitement to racism and is therefore prohibited by law.

When a few fans of Maccabi Tel Aviv yelled “death to the Arabs” during a game against Hapoel Tayibe in September 1996 in which the Arab team also made accusations of discrimination against the Jewish referee, the management of Hapoel Tayibe stated that the referee was “destroying forty years of coexistence.” Approximately a decade later, the expletive “death to the Arabs” had already spread and was commonly heard on sports fields.<sup>6</sup> In April 2006, Justice Edmund Levy ruled that “the cry ‘death to the Arabs,’ which has regrettably become widespread here—including at soccer games, where it sometimes appears as if those who presume themselves to be sports fans have abandoned all restraint—is an expression of a malevolent and dangerous racist spirit which must be decisively condemned and rooted out. It is regretful that concrete measures to prevent this unacceptable phenomenon have not yet been implemented to a degree that would bring about its eradication.”<sup>7</sup>

In late March 2002, when Israel was in the midst of Operation Defensive Shield, Beitar Jerusalem fans subjected Arab player Abed Rabah, who played for Hapoel Petach Tikva and scored the winning goal on Beitar’s home field at Teddy Stadium in Jerusalem, to a barrage of curses, spitting, and derogatory epithets. In a different incident that occurred during the same period, *Yediot Ahronoth*’s sports correspondent reported that the death of a Beitar fan in Operation Defensive Shield incited hatred of Arabs among his friends, who subsequently wrote a medley of anti-Arab songs.<sup>8</sup>

Beitar Jerusalem completely rejects the integration of Arabs into Israeli soccer and is the team that has had the highest number of incidents of racism and violence against Arabs and Muslims over the years. The establishment of “La Familia” by fans of Beitar Jerusalem led to the spread of violence and racism beyond the playing fields, and what started in 2005 as a small group of fans who did not conceal their declared hatred of Arabs and Muslims soon emerged as an extremist right-wing group that has been active at demonstrations against Arab citizens and has been blamed for a number of acts of violence.<sup>9</sup> Between 2005 and 2008, Beitar Jerusalem owner Arkady Gaydamak gave into pressure from “La Familia.” In response to the team’s plans to acquire talented Arab midfielder Abbas Suan,<sup>10</sup> fans from the “La Familia” camp boycotted Beitar Jerusalem. Racist slurs were shouted at their games, and signs were hung bearing slogans, such as “The Battle for Beitar,”

“Seventy Years of Principles,” and “Beitar—Pure for Eternity.” One month later, two young Jews set fire to the club structure at the team’s training site.

In the 2009 Racism Report of the Coalition against Racism in Israel, three of the four sports-related incidents discussed by the report were associated with Beitar Jerusalem. For example, in May 2009, during the state cup victory ceremony for the 2008–2009 season, a Beitar striker, along with team fans, shouted “I hate all the Arabs!”<sup>11</sup> Acts of hatred toward Arabs at Beitar Jerusalem were again committed in January 2013, when owner Gaydamak acquired two Muslim Chechen players, Zaur Sadayev and Dzhabrail Kadiyev.<sup>12</sup> During Operation Protective Edge (July–August 2014) and in the months that followed, racist comments were repeatedly shouted at Arab players. For example, Beitar Jerusalem fans chanted “death to the Arabs” during a game with Bnei Sakhnin;<sup>13</sup> Maccabi Tel Aviv fans shouted racial slurs at their team’s own Maharan Radi in reference to his Arab origins;<sup>14</sup> and fans of Maccabi Haifa clashed with Taleb Tawatha, their team’s Arab player, who responded with violence.<sup>15</sup>

President Reuven Rivlin took it upon himself to help root out the phenomena of hatred and racism on the soccer field. At the Soccer League Administration’s “Beyakhad” (“Together”) conference on the prevention of violence and racism, President Rivlin said the following:

We must contend with the violence, the nationalism, and the racism that are currently tainting the name of Israeli soccer. Although doing so is necessary for economic reasons, contending with this infection, which erupts onto the fields, is not only an economic necessity; it is also a first rate social and moral need. For me, soccer is not only something I truly love. Equally as importantly, it is also a first rate educational tool for creating a healthy, positive, and optimistic encounter between all parts of Israeli society. It is a symbol around which we all can come together, which excites and moves us, together. The field is where we meet ourselves. It is one of the only places in which we are able to agree on shared rules of play and shared values, where we share hopes and disappointments . . . If we can succeed in shaping the field as a place where anyone can fulfill a dream, the product will constitute a message and a vision for all of Israeli society.<sup>16</sup>

### **“Price Tag” Actions**

Right-wing activists began conducting “price tag” (*tag makhir*) actions as acts of revenge, in response to the destruction of settlement outposts by the Israeli police or the army. They initially directed these acts against the inhabitants of Palestinian villages in the West Bank, which included burning fields, uprooting trees and orchards, damaging mosques, and rock throwing. Later, they directed their actions against the Israeli police and the IDF by setting fire to vehicles and puncturing tires. In recent years, right-wing activists have expanded the price tag actions across the Green Line into Israel proper, against Arab citizens of Israel, where the phenomenon has become a euphemism for acts of a racist nature.<sup>17</sup>

For example, in April 2013, four vehicles belonging to a family in the village of Akbara near Safed were set ablaze, and the words “price tag” were written in Hebrew on a nearby wall. In February 2014, the words “price tag” and “we buy only from Jews” were spray-painted on the walls of a plant nursery near Kafr Qasim, which was also damaged. A survey conducted by Mina Tzemach, that was publicized in March 2013 on the television program “Breaking the Rules,” revealed that 30% of the Jews surveyed were not ashamed by racist attacks against Arabs. Another 35% believed that the police was handling violence against Arabs too leniently, and 39% said that the courts were too lenient when dealing with racist violence. At the same time, a minority of 15% felt that the court’s leniency toward Jews was justified.<sup>18</sup>

### **Racist Discourse on the Social Media Networks**

Over the past decade, the internet has gained momentum as the major channel of communication in Israeli society. Technological advancement has enabled Israeli society to be more online, and as a result, the social discourse has also moved to the social media networks. Examination of this discourse reveals a connection between incidents of a political nature and the racist discourse against Arab in Israel. For example, the submission to the Knesset of the Praver-Begin bill for regulating Bedouin settlement in the Negev sparked a storm in the Arab online media, and days later on November 30, 2013, the Arab public engaged in protests at various locations throughout the country. When the issue came to the attention of the Hebrew language media, a discourse that combined the expression of political views

and racism appeared on the internet. For example, television personality Avri Gilad stated on Facebook that “there must be one law for all citizens of the country—the Jew who closes off his patio and the Bedouin who fences off five dunams with a fence that he stole from [the Jewish community of] Omer,”<sup>19</sup> while a Jewish employee of a sports club in Haifa wrote that the Arabs are a “genetic defect” and maintained that Jews should not support Arab businesses.<sup>20</sup> Statements of this kind sparked controversy on the social media networks and, in turn, provoked expressions of racism. A report by the Buzzilla company about the character of the discourse on the internet during Operation Protective Edge in the summer of 2014 (July 11–14, 2014) indicated that conversations containing racist and inciting remarks constituted approximately 44% of the discourse. 40% of this discourse included anti-Arab remarks, expressions of joy at Arab deaths, while the discourse also linked Arabs and left-wing Jews and did not distinguish between political remarks and racist ones, or between Arab inhabitants of Gaza and Arab citizens of Israel.<sup>21</sup>

The social media networks contributed to the rise and rapid organization of groups with nationalist-racist motives. During Operation Protective Edge, a number of Facebook groups were set up with the aim of identifying individuals who expressed anti-war sentiments and harming them in various ways. They included “Not in Our School,” “Boycotting the Haters of Israel,” and “Concentration of the Enemies of Israel.” Each of these pages, which collected information about people who spoke out against the military operation and called for their dismissal, received more than 20,000 likes. Initiatives, such as the Lehava organization and “Lions of the Shadow,” brought people to demonstrations throughout the country during the operation and influenced the nature of the discourse on the internet. Facebook removed Lehava’s page a number of times due to complaints by some internet users that it was being used for incitement purposes, and a number of indictments were issued against its activists.<sup>22</sup> Lions of the Shadow, led by Israeli rapper Yoav Eliasi (nicknamed “the Shadow”), blurred the line between protest and racism whose explicit goal was “to constitute a force against the true enemy among us: the radical left.” The initiative became a violent effort against Jewish left-wing activists and Israeli Arabs who expressed sympathy with the inhabitants of the Gaza Strip.<sup>23</sup> Here too, the boundary between political protest and racism appears to have been obfuscated.

In conclusion, it seems that in the past decade, the Jewish-Arab division in Israel increased, even if only moderately. In recent years, racism has intensified as a social phenomenon among different circles and young people, particularly within the radical right, which continues to expand. These groups make racist statements and act against the Arabs when they feel that “the government is with us.” They make use of the social networks to disseminate their radical views regarding Arabs, which have slowly made their way into the mainstream of Israel’s public discourse. This discourse often does not distinguish between Arab residents of the Palestinian Authority and Arab citizens of the State of Israel, or between them and the Jewish left wing. These groups do not distinguish between political, social-cultural, and racist actions. In their view, there is one enemy and one front line. In this way, the price tag actions, which were originally intended to cause the government to reconsider the removal of outposts in the West Bank, also can serve as a means of maintaining the state’s Jewish character or silencing political opposition, according to the method used, as the same activists who engage in political incitement in one instance engage in racist activity against Israeli Arabs in another.<sup>24</sup>

Despite the troubling nature of these fundamental processes underway in Israeli society, the public discourse has yet to address the manner in which they should be dealt with by the state. The Israeli governments and law enforcement authorities have ignored these acts of incitement and racism and have refrained from dealing with them in a fundamental and comprehensive manner, thus allowing their expansion.

### **Contending with the Phenomena of Hatred and Racism**

The laws of the State of Israel include laws aimed at preventing racism. Subsection (a)1 of the Penal Code, which was incorporated into the law in August 1986, deals with racism, which is defined in section 144(a) as: “persecution, humiliation, degradation, the display of enmity, hostility or violence, or the causing of riots against a public or parts of the population, because of their color, racial affiliation, or national and ethnic origin.”<sup>25</sup> Section 144(b) stipulates that: “a person who published something with the aim of inciting racism shall be subject to five years imprisonment.”<sup>26</sup> The explanatory note of the bill explained the need for this clarification as follows: “During and following the elections for the eleventh Knesset, there was an

increase in public, written, and verbal statements that called for persecution, humiliation, degradation, and acts of enmity and hostility against part of the country's population or caused altercations between parts of the population, due to their race, nationality, or religion." In November 2004, section 144(f) was added to the law, which stipulated that "a person committing a crime based on racist motivations is subject to double the penalty prescribed by law for the offense in question or ten years imprisonment, according to the lesser of the two."<sup>27</sup> The law also prohibits the association of any "group of people, incorporated or unincorporated, that in an organized manner, in its bylaws, its propaganda, or in some other way, preaches, incites, or encourages racism," and imposes prison sentences for activities involving a prohibited association.

Over the past decade, there has been an increased willingness in Israel to openly fight racism and the exclusion of the "other." In April 2003, the New Israel Fund initiated a program called "Kicking Racism and Violence off the Fields," which aimed to "expose and uproot acts of racism and incitement from the soccer fields in the National League and the Premier League."<sup>28</sup> This activity accelerated Israel's entry into the European organization "Football against Racism in Europe" in 2006. The trend of condemning acts of racism and violence received legal validity on July 30, 2008, when the Knesset enacted the Prohibition of Violence in Sports Law, 2008. The law stipulated a punishment of up to two years imprisonment for making racist statements on sports fields.<sup>29</sup> In 2013, the Israeli police and the Israel Football Association declared war on racist remarks on the soccer field, following demands from the media as well as political and international pressure. In this context, dozens of fans were arrested and subjected to police interrogations; some were prohibited from attending games; and a small number of fans from various teams (Beitar Jerusalem, Maccabi Umm al-Fahm, and others) were indicted for racism in sports and racist incitement on the soccer field.<sup>30</sup>

Also in 2013, the Ministries of Justice and Education formulated a joint program of study titled "The Prevention of Racism, Violence, and Incitement." The program was meant to mark International Tolerance Week and adopted the goal of "assimilating a discourse based on the values of love of all human beings, acceptance of the other, tolerance, and mutual responsibility."<sup>31</sup> It was implemented by the Ministry of Education in 2013 and 2014 as part of a program called "From Tolerance to the Prevention of Racism and

Living Together.” The program was implemented in all sectors and all age groups within the Israeli education system as well as with the educational staff working with them. The program, however, did not address the Arab-Jewish divide as a subject of national importance. In addition, even though the program’s lesson plans addressed content on “Bedouin heritage” and “tolerance in Islam,” this content was intended for study in the educational institutions of the Arab population and not in the Jewish schools.

Prof. Mordechai Kremnitzer and Dr. Amir Fuchs claimed in their article “Education toward Democratic Values and Using Education to Fight Racism,” that there has been ongoing erosion of the universal concept of the equality of all people and of the conception of Arab citizens as citizens with equal rights. They maintained that a special effort is needed to rectify matters given the overall content of the education system, which emphasizes the Jewish character of the state in all grades, both in the curricula and the school ceremonies. According to the teachers and the content studied, this character can assume the form of extreme particularism, nationalism, condescension, and enmity toward the other.<sup>32</sup>

It seems that the condemnation of hate and racism by leaders and public figures, Jews and Arabs alike, has been barely heard, while the law enforcement and educational system have not succeeded in significantly reducing hatred, violence and racism in society in general and against the Arabs in particular. Adar Cohen, a former director of civics studies within the Ministry of Education, posited that the problematic events in Jewish-Arab relations are an expression of a broader phenomenon of hatred and fear of all “others” (ultra-Orthodox Jews, immigrants from Ethiopia, homosexuals, refugees, labor migrants). This hatred, Cohen maintains, manifests itself in acts of violence, provocation, offensive remarks, and damage to property, all of which are attributed to racist motivations. Such events are known as “hate crimes.” Acts of serious violence stemming from “hatred of the other” have also occurred among teens and in schools. One of the most serious and shocking acts of this kind in this context was the murder of Muhammad Abu Khdeir from East Jerusalem in 2014.<sup>33</sup>

According to Cohen, civics teachers and homeroom teachers from around the country reported feeling frustrated and incapable of contending with the intensity of the hatred and racism expressed in the classroom. Many teachers indicated that they had almost completely stopped discussing controversial

issues in class—especially related to the Jewish-Arab divide—due to their inability to contend with the extremism and racism reflected in the remarks of some of their students and with the accompanying emotions that the issue arouses. According to Cohen, the work being done in the field of civics education has not provided an effective and appropriate remedy for one of the major problems threatening Israeli society and the Israeli education system. Cohen mentioned that although the subject of “The Other is Me” was incorporated into the curriculum during the 2013–2014 school year and ostensibly addressed the fight against racism, the issue of racism was not its focus.<sup>34</sup>

Cohen proposed the following possible solutions for contending with the problem of extremism and racism on the level of the education system:

1. Incorporate the subject of racism into the annual working plans of the Ministry of Education to ensure that it appears in the working plans of the relevant departments. For instance, it should be clearly included in the multi-year “The Other is Me” program as a subject distinct from the general theme (both on a programmatic and budgetary level).
2. Form a joint taskforce—consisting of academics and representatives of organizations, and experts in the fields of knowledge (the pedagogical secretariat), social education (the Society and Youth Administration), and psychology (the Counseling and Psychology Service)—and charge them with formulating a systemic program for contending with racism in schools, including the allocation of suitable resources for the program’s implementation.
3. Incorporate the subject of racism as a major issue in the Ministry of Education’s work on ethical education and add it as a criterion for the differential budgeting of schools and teacher training institutions.
4. Include measurements of ethical worldviews vis-à-vis the “other” in the school climate indices employed by the *Meitzav* (School Growth and Efficiency Indicators). Today, the indices evaluate violence and teacher-student relations but do not offer any reflection of students’ ethical worldviews toward the “other.” Such a measurement would clearly indicate the focuses and issues that need to be addressed, even though such a measurement may present an unpleasant picture.
5. Develop a comprehensive and systematic school model that would involve all the relevant educational personnel in the school (home room teachers,

specialist teachers, classroom coordinators, and guidance counselors) in a joint effort to contend with the phenomenon (similar, for example, to the systemic work conducted in every school to deal with dropping out, truancy, and violence, and to improve academic performance).

6. Integrate the issue and its educational and pedagogical discussion in a structured manner into the principal training programs (“Avney Rosha”). The concept of Avney Rosha—that principals serve as the schools’ pedagogical leaders—must also be reflected in the systematic way in which principals deal with issues such as extremism and racism.
7. Assimilate a policy of addressing the issue in teacher training programs in colleges. Although the issue today is addressed by courses in a number of colleges, it is not mandatory. Moreover, it is sometimes lost among broader subjects, such as tolerance or “the other,” leaving the core of the educational challenge unaddressed.
8. Include a mandatory advanced training course addressing the issue for all teachers during their year of in-service training. From their first day in the classroom, new young teachers deal almost daily with the challenge of the extremist views of a few of their students, and their initial year of teaching (in-service training) is the most suitable time to equip them with the pedagogical tools to contend with the issue.
9. Empower and strengthen existing educational activities in the education system that has made a proven contribution to achieving these goals.
10. Bolster the field of education toward shared living in the headquarters of the Education Ministry and throughout the education system as a whole, by emphasizing the connection and linkage between three primary aspects: the educational aspect, the experiential/practical aspect, and the emotional aspect.
11. Continue to articulate clear statements on these subjects by the education system leadership to teachers and principals using familiar channels, such as memoranda of the director-general of the Education Ministry, conferences, speeches, and so forth. These statements should reflect the understanding that preventing racism is not related at all with political and party views. On the contrary, it is a precondition for all those who wish to ensure a legitimate and worthy political discourse between right and left, religious and secular, and so forth.



## Chapter 9: “I Have No Other Country”—Trends of Adaptation and Integration

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### **Adaptation and Processes of Integration**

The Arabs in Israel have adapted to the Jewish majority group, after having had a long period of social and cultural experience with it. According to Prof. Sammy Smooha, “the Arabs underwent Israelization (without assimilation), by which they have become closely bound to the state and its Jewish population in many fields of life. They have become bilingual and bicultural, they have undergone partial modernization in their way of life and way of thinking, and they have grown accustomed to Israeli standards. For them, Jewish society is a reference group.”<sup>21</sup> For example, despite the deteriorating relations between the state and the country’s Jewish population on the one hand, and Arab society in Israel on the other hand over the past decade, the process of Arab integration into Israeli society remains a decisive component that influences their relationship with the state. In addition to the political radicalization of Arab society and the ongoing struggle for equality, which has involved national mobilization alongside new legislative initiatives and expressions of hatred and racism by Jewish society, Arab integration continues in various spheres.

One result of these processes has been the Arabs’ lack of consensus about how they should define their status in the state or what the alternative is regarding their status in the future. A majority of Arabs, however, agree that they are not willing to relinquish their Israeli citizenship in exchange for any other alternative. Apparently, Israeli citizenship gives them hope and options that are preferable to the other models offered by extremist camps in Arab society. The idea of the nationalist camp to establish a state of all its citizens and the Islamic religious camp’s idea of creating an Islamic state seem like distant dreams, and not practical goals for which it makes sense to mobilize and take action to fulfill. Indeed, Arab society received the

Vision Documents with indifference and interest in them faded soon after publication; since then, there has been little engagement in their content.

Historical analysis reveals that the relationship between Arab society and the state and its Jewish majority has been dynamic and is shaped, *inter alia*, by policies that improve or weaken its welfare and economic condition, as well as from its integration within Israeli society and the granting of civil rights. Over the years, the Arabs in Israel have experienced an improvement in their standard of living, albeit at a slow pace, as well as progress in fields such as education, higher education, and employment. Although a majority of Arabs in Israel (65%) still work in physical vocations such as construction, agriculture, and unskilled labor,<sup>2</sup> Arab citizens have also been integrated into the Israeli workforce in different areas within the economy, education, and the health services. Furthermore, although their numbers in the public sector are still low, more Arabs are being employed by government ministries. At the same time, the belief that it is worthwhile to invest in Arab society is gradually gaining currency in the country's business sector.<sup>3</sup>

Arab men and women in Israel are involved in cultural life, theater, cinema, television, and sports, and sometimes also represent the State of Israel in these areas and others in the international arena. During the past fifteen years—since the Second Intifada and the events of October 2000, the publication of the Vision Documents (2006–2007), the Second Lebanon War, and multiple Israeli operations in Gaza—more than twenty-five joint Arab-Jewish binational theatrical productions have been staged, which have engaged in peace building and establishing an intercultural dialogue. Intercultural dialogue has been conducted through the arts and relates to all types of joint creative work between different cultural groups in theater and various fields of art, such as the plastic arts, cinema, music, dance, and so forth.<sup>4</sup> Intercultural dialogues have also served as a tool for social and political change and have helped promote conciliation, dialogue, and coexistence between Arabs and Jews, including developing the ability to imagine a future of peace.<sup>5</sup>

The joint creation process in these binational productions allows equal conditions for Jews and Arabs and establishes a safe space in which to work. The productions provide playwrights and actors with the public legitimacy to contain and express different approaches and controversial voices, including Arab narratives and symbols that are not commonplace in political and social

discourse in Israel. They have enabled Arabs to contend with the dilemma of integrating into Israeli society and linking their destiny with that of the state. In accordance with Prof. Dan Orian's approach to theater as "a public stage that represents reality and takes part in its creation," these productions play a part in creating a multiracial society.<sup>6</sup>

Prominent in the field of sports is the growing number of professional Arab soccer players in Israel, as well as Arab soccer teams. In 1995, only nine Arab players were playing in the national league, whereas in 2011, the premier league had fifty-six Arab players. According to the Israel Football Association, Arab teams accounted for approximately 40% of all soccer teams in Israel in 2004, although Arabs account for only approximately 20% of the country's overall population. These teams also have Jewish players and some have Jewish coaches. Today, there are three Arab teams in Israel's premier league: Hapoel Tayibe, Maccabi Ahi Nazareth, and Ihud Bnei Sakhnin. The management of Bnei Sakhnin has raised the banner of Jewish-Arab coexistence and is a symbol of the integration and legitimacy of Arabs in sports in Israel. Arab players also play on Israel's national soccer team and represent the country on the field.<sup>7</sup>

The Israeli media engages in extensive coverage of Israel's Arab soccer teams and Arab players given their relative increasing influence and professional success. Indeed, the coverage tends to relate positively to the integration of Arabs into sports in Israel, by emphasizing its benefits and demonstrating an opposition to racism. The Israeli media clearly recognizes that violence and national politics constitute a threat to the sports culture that promotes coexistence.<sup>8</sup>

In Israeli society, the reality of daily proximity and contact between Jews and Arabs plays a decisive role in constructing the social relations between the groups, beyond the influence of state mechanisms. For example, in public meeting places, such as malls and large shopping centers, parks, and beaches, Jews and Arabs engage in different kinds of cooperation. Such places are sometimes characterized by attributes that neutralize national identity, and the encounters that take place within them create a routine of work relations and commercial relations as well as a social dynamic that result in the humanization of the other.<sup>9</sup> Experience shows that during exceptional events (such as wars), activities slow in such meeting places but do not reach a breaking point; economic considerations (such as work,

earning a livelihood, and consumption) prevail, and the routine is resumed once the exceptional event has concluded.

The integration of Arabs into different fields of employment, where they work side by side with Jews, has, in many cases, created a reality in which professional values have become a behavioral norm dictating relations. Relationships of trust are built between Jews and Arabs who work together and cooperate with one other in fulfilling their responsibilities, regardless of religion or nationality. This phenomenon is particularly visible in Israeli hospitals, where the day-to-day reality, like that throughout Israeli society, contains not only national and religious divisions and tensions but also factors that encourage bonding and unity. From this perspective, hospitals in Israel can be viewed as a model for the rest of society.

Thus, alongside the ongoing national conflict, replete with its ideological baggage and residual enmity, the two societies, Jewish and Arab, maintain reciprocal relations in numerous areas and a routine of daily life in a shared existential space. These connections are based on mutual interests and they have economic, social, political, cultural, and psychological aspects, which, in turn, affect the consciousness of the two groups and contribute to mutual recognition and stabilizing relations. This phenomenon has also found expression in public opinion polls over the years.

## **The Integration of Arabs into Civilian National Service**

### *The Or Commission*

Minority-majority relations are problematic everywhere, especially in countries that define themselves according to the nationality of the majority. The dilemmas that arise in such states have no ideal solutions . . . state action must be focused on providing true equality to the country's Arab citizens. The right to equality of Israel's Arab citizens stems from the essence of the State of Israel as a democracy and from the nature of this right as a basic right of every citizen. Discriminatory treatment contradicts the basic right of equality that, in the view of many, is part of a person's right to human dignity. This is undoubtedly true in the case of discrimination on the grounds of race or nationality. Therefore, the state must take action to wipe clean the stain of discrimination against its Arab citizens, in its various forms and expressions.<sup>10</sup>

### *The Lapid Committee*

1. The government shall promote the idea of establishing a civilian national service to be fulfilled by citizens of Israel who are not called up for military service. As a first stage, this service could be performed voluntarily and in the framework of their own community.
2. The government shall encourage possibilities of expanding the number of volunteers among members of the Arab sector for service in the army, the Israeli police force, and other frameworks, and shall examine ways of promoting such voluntary action.
3. The minister of social affairs and social services shall be charged with formulating the above-mentioned integration plan, in conjunction with representatives of the ministers of defense, finance and justice, in an effort to create integration between this program and existing programs for males and females, including advancing the required legislative amendments.

Explanatory Note—It is proposed to seek out alternative ways of effecting the practical integration of members of the Arab sector into state frameworks and civil society. These frameworks should provide them with tools “to participate in the upbuilding the state on the basis of full and equal citizenship.” The state, for its part, shall increase the incentive to make certain it ensures “complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex” and guarantees “freedom of religion, conscience, language, education and culture” (from the Declaration of the Establishment of the State of Israel). The Committee made note of the fact that the delegation of representatives of the Arab community, led by Shuki Khatib, chairman of the Committee of Arab Authorities, which appeared before committee Chair Yosef (Tommy) Lapid, categorically rejected the idea of enlisting young Arab men and women to take part in civilian service, even on a voluntary basis, “as long as full equality between the sectors is not achieved.”

Over the past decade, progress has been made in integrating young men and women from the Arab sector into civilian national service. At the beginning of 1995, the Committee for the Establishment of Civilian National Service

(the Ivri Committee) submitted an interim report to the prime minister, the defense minister, and the minister of social affairs and social services, which in practice expressed support for the recommendations of the Lapid Committee.<sup>11</sup> The committee recommended that the Israeli government allow civilian national service for all citizens and residents of Israel who are not drafted for military service or who are exempt from it; that is, to expand the service frameworks to accommodate young men and women from population groups who do not presently serve, including the Arab population.

The government began moving forward on the issue in February 2007, when it passed a resolution, in principle, to establish a state authority for civilian service in which young Arab adults would be able to volunteer on a larger scale than they had up until that point (approximately 300 volunteers, mostly young women). In August 2007, the government approved the establishment of a Civilian National Service Administration in the Ministry of Social Affairs and Social Services to serve as a framework to direct young adults from the Arab sector (age seventeen and older) toward volunteer community work (later, the Service Administration began operating out of the Prime Minister's Office, and then out of the Ministry of Science and Technology). Today, civilian national service is implemented through seven nonprofit organizations, which together liaison between the volunteer and his or her place of volunteering. These organizations include the Association for Volunteering, Bat-Ami, Shlomit, Aminadav, the Jerusalem Municipality's Unit for National Service, National Service, and the Association for Social Equality and National Service (the only association that is under Arab management).<sup>12</sup>

The records regarding civilian national service from 2013 onward reflect a steady increase in the number of Arabs volunteering for service since the establishment of the Civilian National Service Administration, from 240 volunteers in 2005–2006 and 289 in 2006–2007 to 628 in 2007–2008. In 2012–2013, the number of Arab volunteers had reached approximately 3,600. As of today, approximately 10,000 Arab young adults have completed the program. According to reports of the Civilian National Service Administration, the decisive majority of volunteers are female (approximately 90%). Most volunteers (about 75%) are placed in Arab communities and villages in close proximity to their places of residence, while the rest engage in activity outside of these communities. The placement of 75% of all volunteers takes place

in northern Israel, and the rest occurs in the center and south of the country. 10% of the volunteers choose to continue volunteering for a second year.<sup>13</sup>

In 2012, the Plesner Committee published its report (as a result of the expiration of the Tal Law that related to the exemption of military service among the ultra-Orthodox) and set the goals of the civilian national service program for the years to come. According to the decision of the committee, civilian national service would be integrated gradually within the Arab community, with a recruitment goal of 6,000 volunteers for 2017. At the same time, the committee recommended that the government appoint a designated committee to conduct comprehensive administrative work and examine the different issues involved with implementing the principle of "service for all" over time.<sup>14</sup> The committee's work drew criticism from Israel's political right-wing, as Yisrael Beiteinu maintained that "the committee's decision to discriminate in favor of Israel's Arab population and to not require it to perform [military] service for the state violates the importance of equality in bearing the burden of service." From the left wing of the political map, the Arab parties maintained that "it is impossible to discuss equality in bearing the burden when Arab citizens still do not enjoy equality."<sup>15</sup>

The Arab leadership has expressed its opposition to the plan for integrating young Arabs into civilian national service. Although in practice there has been continuous growth in the number of Arab youth taking part in the program, the Arab public and political leadership has opposed the program due to its relationship to security and the fact that it was formulated in its initial incarnation by the Ministry of Defense. Some Arabs in Israel believe that the plan aims to pave a way for the enlistment of the Arab population for military service and to strengthen the connection between young Arab volunteers and the state, at the expense of their national Arab identity.

A position paper published in 2012 by the Abraham Fund noted that the Arab public's opposition to civilian service stemmed from the failure to involve the Arab leadership in the decision-making process and due to the coercive approach toward the Arab population. The opposition is based on resisting the approach that the provision of state services to citizens is contingent upon their fulfilling obligations. In the view of the Arab public, any arrangement that does not establish a direct connection between the volunteering of young Arabs and the need to reduce the disparities faced by Arab society is doomed to fail.<sup>16</sup>

### ***Public Opinion Polls***

The Index of Arab-Jewish Relations in Israel, directed by Prof. Sammy Smooha of the University of Haifa, reveals a downward trend in Arab attitudes toward the state since 2003, manifested primarily by a sharpened criticism of the state's "Jewish and democratic" character and of the continuation of the Israeli-Palestinian conflict. However, a retrospective analysis since 1976 reveals the relative stability of views of the Arab society. According to Prof. Smooha, the index data points to the existence of a sturdy foundation for Arab-Jewish coexistence in Israel. Accordingly, most Arabs believe in living together, accept the existence of the state within the Green Line as the framework in which their relations take place, and feel that Israel is a good place to live. They also say that they would not be willing to leave the country; are committed to democracy as a system for regulating the relations between the parties; and agree that civil equality is the basis for coexistence and an important national goal. This reality, Prof. Smooha holds, refutes the prevailing view in Jewish society and among policy-makers and academics that Arab citizens of the country are undergoing a process of radicalization and are on a collision course with Israeli Jews and with the state itself.<sup>17</sup>

Prof. Smooha's survey also indicates that the views of the Arab public regarding major ideological questions are more moderate than those of its leaders. Whereas the Arab leadership rejects the assessment that Israel is also a democracy for Arabs, opposes the definition of Israel as a Jewish state, and rejects the specific solutions to the Israeli-Palestinian conflict that are popular among Jewish Israelis, the view of the Arab public on these issues is more moderate. According to the data included in the Index of Arab-Jewish Relations for 2008, 57.3% of Arabs believe that Israel is also a democracy for Arabs; 41.4% accept Israel's right to exist as a Jewish and democratic state;<sup>18</sup> and 58.8% agree that the Palestinian refugees' right of return should be actualized only in Palestine.<sup>19</sup> According to the data in the Index for 2012, 55.9% of Arab citizens have come to terms with Israel as a state with a Jewish majority; 60.6% have accepted it as a state in which Hebrew is the dominant language; 53.2% have accepted it as a state with Hebrew-Israeli culture; and 60.2% have accepted it as a state in which Saturday is the day of rest. In addition, 54.7% of Arabs would prefer to live in Israel than any other country in the world. According to the Index, Arabs are clearly committed to continuing coexistence, based on accepting

Israel within the borders of the Green Line, managing relations according to democratic principles, and having relations out of choice and beyond. For example, 80.5% of Arabs agreed that “Arabs and Jews must also have relationships that people choose willingly, such as personal friendship and activity in joint organizations.”<sup>20</sup>

The results of the 2013 Index revealed similar trends. After a decade (2003–2012) of increasingly negative attitudes of the Arabs in Israel vis-à-vis the state and the Jewish majority, the 2013 Index indicates a change in direction. For example, it was found that 52.8% of Arabs recognize Israel’s rights to exist as a Jewish and democratic state (as opposed to 47.4% in 2012) and 43.1% recognize the state’s right to exist as a state that maintains its Jewish majority (as opposed to 29.6% in 2012). If a referendum were held to establish a constitution that defined Israel as a Jewish and democratic state and assured full civil rights to Arabs, more than half of the Arabs in Israel, or 53.2% (as opposed to 48.2% in 2012) would support it. 63.5% of Arabs in Israel thought that Israel in 2013 was a good place to live (as opposed to 58.5% in 2012).<sup>21</sup> According to Smootha, the fact that Arab views have not regressed is indicative of the fact that the Arabs are undergoing a process of adaptation to the state and the Jewish majority; are committed to a democratic struggle; and are striving to achieve a status equal to that of Jews. This trend could also be observed in a survey that was conducted in 2010 among Arab youth in Israel.<sup>22</sup> According to the findings, approximately half of the Arab youth saw themselves as Israeli, and the other half as Palestinians: 72% felt that they were part of the state; 45% wanted to integrate into Israeli society; and 75% accepted Israel’s right to exist as a Jewish and democratic state. The survey also established that 64% believed that Israel is a democratic state; 55% had faith in the courts; 74% believed that the education system allowed them to express their culture as well; and 86% were willing to have a Jewish friend or acquaintance of the same sex and age. As for Jewish youth, the survey indicated a difference between their agreement to grant Arabs collective rights and their attitude toward them on an individual level: 49.5% believed that Israeli Arabs should not be granted rights identical to those enjoyed by Jewish citizens of the State of Israel,<sup>23</sup> and 56% believed that Arabs should not be allowed to be elected to the Knesset.<sup>24</sup> On the other hand, 66% of Jewish youth indicated that they would be willing to have an Arab friend or acquaintance and 78% said that the slogan “death to the Arabs” was

racist and illegitimate. Other surveys conducted over the past decade (2003, 2006, 2009) by the Technion's Samuel Neaman Institute indicate that the degree of faith that the Arabs in Israel have in state institutions, including the Knesset, the High Court, and its universities, is currently on the rise.<sup>25</sup>

### **Between Identity and Identification**

Although the Arabs in Israel have difficulty identifying with the state and its Jewish symbols (holidays, the national anthem, the flag, and the Star of David) for understandable reasons, most are satisfied with being citizens of the state and with its general living conditions. They conduct their social and political struggle to improve their status and advance their rights as citizens of the state using democratic tools. This has been the primary motivation for their activity in this field, whereas the Israeli-Palestinian national conflict has been of secondary importance, which usually amounts to identifying with their fellow Palestinians. This assessment is supported by the Alienation Index for 2015, which indicates a significant increase in the percentage of Arabs in Israel who identify with the Israeli flag (55%, as opposed to 37% in 2014) and a decrease in those identifying with the Palestinian flag, including among Muslim Palestinians as well. The percentage of Muslims who indicated their identification with the Palestinian flag dropped from 34% in 2014 to a mere 8% the following year.<sup>26</sup>

The fact is that the Arabs in Israel have refrained from actively participating in the Palestinian national struggle. Although they have expressed sympathy and taken part in disseminating information and propaganda, they did not play an active and violent role in the First Intifada nor in the second one (the al-Aqsa Intifada). This was a significant factor in assessing their connection and sense of belonging as citizens of the state. Their non-violent form of protest during the violent clashes of the Israeli-Palestinian conflict in recent years as well as against the backdrop of socioeconomic issues also are indicative.

Arab society in Israel has a potential for broad popular protest. The most visible phenomenon in this context in recent years has been young Arabs' abandonment not only of the veteran political parties but also traditional bodies such as the Higher Monitoring Committee. Young Arabs are not interested in participating in inflexible groups nor do they feel that they must show organizational affiliation or commitment to a defined narrow political

ideology. Rather, they prefer flexible organizations and have employed a more decentralized model of protest, which has enabled different groups from a variety of political camps and places to cooperate in protest activity. To this end, they use the internet and the social networks, which enable them to bridge gaps and unify different population groups around specific issues or goals. Arab civil society groups work with the internet in a similar manner. During Operation Protective Edge, for example, they drafted petitions for mass signatures, as well as issued public statements that called for an end to the war in Gaza, condemned the killing of civilians, and appealed to the United Nations. All this reflects the existence of a collective will and a potential for widespread protest.

These forms of protest undermine the authority of the Arab parties and challenge traditional bodies and institutions, such as the Higher Monitoring Committee and the heads of the local authorities, who tend to oppose protesting as it disrupts daily life and harms economic interests. While this does not negate or diminish the power of the traditional bodies, it does attest to the fact that the support of the young generation can no longer be taken for granted. The use of new media has also undermined the tools of communications of the traditional leadership and facilitates the mobilization of public opinion and leadership of the public in a manner that ostensibly appears more equal and democratic. This model of protest could also be clearly observed during the activity that was organized against the Praver plan in late 2013. Groups of young adults seized the reins and conducted protests that bypassed the political party frameworks, such as the Movement of Youth in the Negev (*al-Hirak al-shababi fi al-Naqab*). These were young adults devoid of party affiliation who advanced a large-scale protest and recruited young Arabs from around the country, without needing other bodies for organizational or logistical purposes or to direct the protest itself.

It is clear, therefore, that the Arabs of Israel have a real potential for broad mobilization and popular protest, whether in opposition to the occupation or in support of the population in the territories, or out of a feeling of being discriminated against or deprived by the state. Nonetheless, in comparison to the events of October 2000, the different protest activities that have played out in recent years have remained under control, and, in most cases, both the police and the protesters have demonstrated restraint. The prevailing

assessment is that expressions of protest in Arab society are manifestations of situational radicalization.

According to Prof. Amal Jamal, the forms of Arab protest in Israel have been influenced by the Arab Spring and inspired by the power of popular mobilization as manifested in the Arab world. Jamal explains, however, that this inspiration has been balanced by their fears of losing resources and the standard of living they have succeeded in achieving for themselves, despite the state's discriminatory policies. They have made a great effort to survive in recent decades, he explains, and the chances they would be willing to risk their achievements by deviating from the norms of proportionate protest—for an unclear political future and horizon and as the Arab world collapses around them—have become exceedingly slim.<sup>27</sup>

It is clear that reaching a solution to the Israeli-Palestinian conflict would relieve the Arabs of Israel of a great burden. Indeed, accusations that they sympathize with and support the PLO and the Palestinian leadership impair their chances of advancing as citizens of the state, as they are considered as identifying with the enemy. The sympathy they express for their brethren in the Palestinian Authority, which sometimes involves the holding of demonstrations and protests and the articulation of anti-Israeli views on the question of the conflict, is detrimental to their ability to negotiate with state institutions and with Jewish society and to improve their status.

**PART III:**

**CONCLUSION AND RECOMMENDATIONS**



## Chapter 10: Integrative Review and a Look Forward

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The analysis presented here of the Israeli government's actions to advance the status of Arabs in the country shows that although progress has been made in implementing the recommendations of the Or Commission and the Lapid Committee in almost all the areas considered, this progress has been extremely slow and more quantitative than qualitative.

This raises the following question: Seventeen years after the violent events of October 2000, and in the wake of the formulation and adoption of the recommendations of the Or Commission and the Lapid Committee, how can we explain the insufficient progress toward changing the status and quality of life of Arab society in Israel? What are the obstacles that are preventing this progress, which the state commission of inquiry identified as urgent and of supreme national importance?

We can point to a number of explanations for this phenomenon, some that have been prominently highlighted by the academic research. One explanation is that Israel has no genuine interest in closing the gaps between its citizens, as the existence of these gaps constitutes a mechanism that ensures state involvement in the affairs of Arab society (for example, in Arab municipalities) and erodes the Arab community's relative independence.<sup>1</sup> Another explanation relates to the national dimension of the Jewish-Arab conflict as a primary factor preventing the reduction of inequality and explaining the lack of progress in civic areas, such as the allocation of land to Arabs. Other explanatory factors pertain to the lack of an overarching conception for the integration of Arab society as well as obstacles that are budgetary, bureaucratic, social, and political in nature.

### **The Lack of an Overarching Conception for the Integration of Arab Society**

In the realm of Israeli law, both legislation and case law contain provisions that anchor the principle of individual equality and prohibit discrimination

between citizens of the state on grounds of group affiliation, such as religion, sex, nationality, and so forth. Israeli law also contains provisions that give affirmative action to the Arab minority, including legislative amendments relating to due representation and their expansion by a High Court ruling. However, in the current Israeli social and political reality, discrimination and exclusion against Arab society in Israel continues. The background for these phenomena is typically prejudices toward the Arab minority that are prevalent among the Jewish majority, or feelings of animosity, threat, or fear as a result of the ongoing violent national conflict between the State of Israel and the Palestinian people, of which Israel's Arab minority regards itself as an indivisible part. Although law and the Israeli legal system play an important role in contending with the problem of discrimination and exclusion—and indeed significant steps have been made in moderating this phenomenon—legal measures alone do not provide a complete solution. Moreover, it is clear that the collective status of Arabs in the State of Israel, which defines itself as “Jewish and democratic,” causes unavoidable tension and must be determined by the state political system and not the legal arena.

The events of October 2000 and the conclusions of the Or Commission, the state commission of inquiry that was established in its wake, brought about a change in the understanding of Israeli decision makers and caused them to understand that the status of the Arab minority is an issue of strategic national significance. The Or Commission highlighted the importance of dealing with the issue—which has been neglected for many years—in the immediate short term, medium term, and the long term.<sup>2</sup> Israel has publically recognized the discriminatory policies that have been implemented toward this group since the establishment of the state and has acknowledged that giving full equality under the law to this population, as individuals and as a group, is a national interest that is crucial for ensuring social stability and economic prosperity.

For at least some Israeli governments, the Or Commission Report of September 2003 provided a “roadmap” of sorts for the advancement of civic equality of the Arabs in the country, as well as for addressing disparities and feelings of deprivation among them. In the years that have elapsed since then, the Israeli government has passed resolutions aimed at furthering these aims, such as the establishment of the Authority for the Economic Development of the Arab, Druze, and Circassian Sectors and the approval

of multi-year plans to provide government assistance to Arab communities. Some government ministries have applied policies of affirmative action,<sup>3</sup> and progress has been made in areas of welfare, education, economy and infrastructure. Israeli governments have made statements and taken action toward developing the capacities of Arab society in the realms of the economy and higher education based on a recognition that this is the key to the potential growth of the State of Israel.<sup>4</sup>

But the State of Israel has not formulated an overarching conception of Arab integration into Israeli state and society, and the government actions taken thus far in accordance with the recommendations of the Or Commission have not been the result of a national strategic decision to change the existing reality. Prof. Ruth Gavison claimed that the government's aim in establishing the Or Commission was to divert the criticism and protest that was leveled against it due to its failed performance and to enable it to successfully get through the elections.<sup>5</sup> Later, the government established the Lapid Committee, which broke down the Or Commission's recommendations into immediate actions with high visibility, although in practice government ministers did not ensure their implementation.<sup>6</sup> Over the past decade, decision makers have typically worked in pursuit of short-term political interests; in accordance with social and security-related considerations, such as concerns of separatism; or out of economic interests, such as the need to increase productivity and reduce poverty (in part, as conditions for Israel to join the Organization for Economic Cooperation and Development—OECD).<sup>7</sup> The governments that have served the country over the past decade have lacked vision and an all-encompassing view for closing the gaps between Arab and Jewish society and achieving the Arabs' full social and economic integration into the country, as citizens with equal rights.

### **Economic Integration in the Shadow of Budgetary and Bureaucratic Obstacles**

Given the understanding that any program aimed at closing the gaps and achieving significant advancement of Arab society will be costly for the state budget, the Or Commission emphasized in its recommendations that “the budgetary considerations pale in the face of demands for the realization of basic rights.” The political reality, however, has prevented the possibility of formulating development plans with high budgets. Coalition parties,

obligated to the needs and interests of their Jewish constituents, have precluded the allocation of portions of the overall budget that are needed to advance Arab society (whose elected leaders have not been represented in Israel's governing coalitions). Moreover, the erosion of Israel's welfare policy and the recurring budget cuts as a result of implementing a neoliberal economy (since 2003) have significantly affected long-term processes, such as those outlined by the Or Commission. Government funding and benefits in the Arab sector have been cut to allow a state recovery program, and the program for the integration of Israel's Arabs has been pushed aside and given low government priority in favor of more immediate aims.<sup>8</sup>

The experience of the past decade shows that budgets allocated for the advancement of Arab society have also been eroded, have been lower than the original allocation, and delayed the pace of implementation compared to the original development plans. The tenure of Ehud Barak as prime minister (1999–2001) witnessed the approval of a four-year plan that was allocated NIS 4 billion but that was significantly curtailed during the implementation process. Between 1995–2005, seven government resolutions were approved regarding comprehensive development projects for Arab society, including projects that were budgeted for implementation by 2008. Between 1995 and 2005, government resolutions authorized four multi-year development plans, which created a budgetary framework and demarcated operational goals for the policy of development of the Arab communities. Overall, the multi-year plans were supposed to double the development budget of Arab communities from NIS 2 billion to NIS 4 billion, with an addition of NIS 1 billion from the Finance Ministry and another NIS 1 billion from intra-ministerial rechanneling of funds. However, the declared budget was cut and the budgetary addition actually only amounted to NIS 738.3 million—approximately only 37% of the designated addition.<sup>9</sup> The state budget for 2012 designated only NIS 1 billion out of NIS 17 billion (6%) of the government's development budget for the funding of development projects for the Arab population, which had been approved between 2010 and 2012.<sup>10</sup>

Following the publication of the Vision Documents in 2006–2007, the GSS urged the political leadership to move forward with actions to integrate Arabs into the economy in order to neutralize separatist trends of undermining the Jewish and democratic character of the State of Israel, which had the potential

to sweep up the masses. The political leadership responded positively and made a number of decisions during 2007, which included:

1. establishing the Authority for the Economic Development of the Arab, Druze, and Circassian Sector within the Prime Minister's Office, with the aim of deepening Arab integration into the state economy
2. forming a civilian national service administration, which began recruiting young Arab men and women
3. increasing the number of Arab employees in the Israeli civil service
4. publishing the recommendations by the deputy commissioner of the Bank of Israel to reduce the number of foreign workers, which was expected to impact the employment of Israeli Arabs
5. establishing a professional committee to examine the needs of the Arab education system, including the shortage of classrooms.

These decisions also encountered bureaucratic, social, and political obstacles, making them difficult to implement in practice, and thus have prevented significant change in the status of the Arabs.

The Or Commission's recommendations also recognized the bureaucratic obstacles: "Even when the authorities were willing to initiate actions to reduce discrimination and planning bodies were put into operation to prepare multi-year plans for the development of the Arab sector . . . the practical implementation of the plans and the recommendations was often only negligible. Many good intentions were eroded in the course of these stringent bureaucratic processes."<sup>11</sup> There is evidence that even over the past decade government resolutions designed to advance Arab society and implement equal policy toward it were undermined at the administrative implementation level, whether due to bureaucratic imperviousness or to hostile attitudes toward Arabs. In some cases, decisions regarding the Arab sector reach the level of junior officials, where their implementation is halted and dissolved at this level. Raanan Cohen has estimated that even though the government has wanted to bring about positive change and formulate plans for the Arab population, a large number of the decisions are not implemented because officials responsible for implementation think that the government is not interested in carrying out its decisions, and that they were solely declarative decisions. Due to lack of interest, knowledge, ability, and willingness to implement the government's policy of equality, bureaucratic officials become obstacles in implementing government actions.<sup>12</sup>

The poor capacity for coordination between the different government ministries has also made it difficult to advance multiorganizational national projects such as Arab integration into society and the economy. This explains why, after the transfer of the funds required for the development of industrial areas in Arab municipalities, the project's progress within the Ministry of Industry, Trade, and Labor (today, the Ministry of the Economy) was halted due to a lack of having appropriately allocated commercial land to implement the project. In addition, as a result of the lack of intra-ministerial coordination on the part of the Ministry of Industry, Trade, and Labor, the creation of industrial areas that actually had been allocated land could not be carried out due to the failure of the Ministry of Infrastructures to allocate water, electricity, and waste removal infrastructures as well as the negligence of the Ministry of Transportation to connect industrial areas to major transportation arteries at the highway interchanges.<sup>13</sup>

### **Social and Political Obstacles**

Social and political factors also hinder the development of Arab society. The Arabs in Israel must contend with the wide-scale perception among the Jewish population that the Jewish-Arab divide is part of the Israeli-Palestinian conflict, and that their Israeli citizenship is therefore at odds with their Palestinian nationality. In part, this stems from the fact that some Arab political leaders and public figures link the national struggle to the civil struggle and in doing so deepen the Arab-Jewish divide. As a result, opposition to or abstention from action to reduce the disparities of Arab society is sometimes linked to the Israeli-Palestinian conflict. The Or Commission addressed this issue as follows: "The messages conveyed before and during the October disturbances blurred and at times negated the distinction between the state's Arab citizens and their legitimate struggle for rights, and the armed struggle against the state being waged by organizations and individuals in the West Bank and Gaza. On more than one occasion, leaders of the Arab community have presented the two struggles as one struggle against one adversary, and often an enemy. The concept of citizenship, in its fundamental sense, is incompatible with the representation of the state as an enemy."<sup>14</sup>

A similar struggle is being conducted today concerning the issue of civilian national service for Arab youth. The Higher Monitoring Committee for Arab Affairs in Israel opposes such service, and the public and political

leadership is unwilling to engage in public discourse on the issue within Arab society. The argument being voiced is that such service will open a “back door” for enlisting Arab youth for military service.<sup>15</sup> However, halting the initiative would be detrimental primarily to the Arab population—many of whom support such service—and would constitute an obstacle to their integration into Israeli society.

The lack of progress in changing the reality of Arabs in Israel has also been linked to the poor economic condition of the Arab municipalities, which makes their access to funding based on the principle of matching funds particularly problematic. Arab municipalities suffer from faulty management of their affairs largely due to flawed organizational culture, internal power struggles within the community,<sup>16</sup> unsound financial conduct, and the formulation of unbalanced budgets. Also relevant is clan involvement in municipal management, which finds expression in unsuitable appointments and the distribution of resources and benefits to those close to them; the absence of a tradition of public service; and little responsibility for advancing public interests and proper administration.

The clan structure, which prevents the possibility of trading in land, adds to the obstacles hindering the advancement of Arab society in Israel.<sup>17</sup> Private land ownership, land inheritance practices, and the concept of land ownership as a value make it difficult to contend with the lack of land for development purposes and for the establishment of new communities for the Arab population. A family’s refusal to sell a parcel of land at a given geographical location could potentially impede the establishment of an industrial area, whereas locating an industrial area on the other side of the community may spark the objection of different clan.<sup>18</sup> The conception of women in Arab society also adds to the barriers. The exclusion of women from the workforce, tradition-based limitations on the occupations in which they engage, and illegal practices such as polygamy mean that the burden of earning a livelihood for the family rests on a single earner, which impedes the development of society.<sup>19</sup>

All this has made it difficult to implement, in practice, the declared policy and recommendations of the Or Commission Report and has prevented substantial change in the lives of Israel’s Arabs.<sup>20</sup> Although the discourse on Arab development and economic integration has resulted in the state’s taking significant steps to achieve economic integration—accelerated since

2007 due to the recommendation of the GSS—progress has been limited in achieving civil equality for the Arab community. From various perspectives, the Arab community is still excluded and discriminated against. It suffers from institutional discrimination in the form of the unequal distribution of resources and budgets; in the percentage of Arabs employed in public service; and in settlement. It also suffers from non-institutional social discrimination stemming from the clash between the two societies and feels discrimination in daily life, such as from the refusal of some Jewish Israelis to hire Arabs;<sup>21</sup> Jewish opposition to Arabs living in Jewish cities; the refusal to allow Arabs to enter leisure and entertainment establishments; and the use of racist expletives against Arab citizens of the state. The rights of Israel's Arabs as an ethnonational minority remain limited in the absence of their official recognition as a national minority with collective rights, and the disparities between them and Jewish society have continued to expand, despite that their socioeconomic conditions have improved in comparison to the past.<sup>22</sup>

In this way, the measures that have been taken since 2007 to achieve economic integration have been detached from other measures to promote overall fundamental equality. Moreover, in parallel to the policy of economic integration and against the background of the ongoing struggle for equality and the publication of the Vision Documents, initiatives aimed at the cultural and political exclusion of Arabs in Israel have increased. Within the Jewish population, an increasing number of voices have called for weakening the status of Arabs in the state and reducing the civil rights they have achieved thus far. This has been reflected in new legislation and increasing expressions of hatred and racism against Arabs.

### **Recommendations for Policy and Decision Makers**

As has been reflected in the account and analysis here, despite the deterioration of relations over the past decade between the State of Israel and its Jewish population on the one hand, and the state's Arab population on the other hand, Arab integration within Israel remains a decisive component that affects relations with the state. This process has intensified in recent years in different spheres (economic, social, cultural), and indeed, both Jewish and Arab society in Israel continue to interact in many areas and maintain a routine based on shared interests.

Policy makers and decision makers must recognize the importance of the processes of adaptation and integration that Arab society has undergone vis-à-vis Jewish society in Israel. Long-term policy that is formulated in accordance with this recognition will likely strengthen the Arabs' sense of belonging to the state, without harming their cultural and community identity, and will serve the Israeli national interest, regardless of whether the state reaches a political settlement with the PLO.

The pragmatic policy of the Joint List in the twentieth Knesset—which espouses a Palestinian Arab national approach and advocates Arab integration into Israeli society and the Israeli economy—serves as a basis for cooperation between the Arab leadership and Israeli state institutions in order to reduce the extent of civil inequality and advance Arab integration in the different spheres. Following this path, which should steer clear of ethnic discrimination and exclusion and should be backed up by legislative initiatives aimed at preventing them, will contribute significantly to improving relations between the Arabs of the country on the one hand, and the State of Israel and its Jewish population on the other hand.

### **Recommendations in the Legal Sphere**

Analysis of the reality of Arab life in Israel from a legal perspective indicates that the major problem lies in the failure to realize the rights that are anchored by law. This being the case, it is recommended to take action aimed at realizing these rights, of which the Arabs of Israel remain deprived today. To some extent, solving the problems of discrimination and inequality that continue to persist in Israel, primarily on the level of individual rights, can be achieved by legal means. Both legislation and case law contain provisions that anchor the principle of individual equality and prohibit discrimination between citizens of the state on the basis of religion, sex, and nationality. They also contain provisions that establish affirmative action for Arabs, including legislative amendments regarding due representation and their expansion in law by the High Court. In order to realize the formal civil equality of Arab citizens of Israel, state institutions must implement these provisions that are not already fully in effect. Doing so will also require vigorous and determined civil activity.

The collective status of the Arabs in the State of Israel, which defines itself as “Jewish and democratic,” is an issue that arouses unavoidable tension.

Like the Or Commission, former High Court justice Mishael Cheshin also believed that the recognition of collective rights for Arabs in Israel is a political act, and that the authority to do so lies with the country's political authorities. At the same time, former High Court justice Prof. Yitzhak Zamir has maintained that the right to equal allocation of state resources is not limited to individual rights but is also a distinctly collective right of great practical importance. According to Zamir, on principal, the court is both authorized and also designated to develop collective rights, including collective rights for the country's Arab population. Accordingly, he suggests using the High Court to a greater extent in order to realize the Arab population's right to the equal allocation of state resources, whether financial or otherwise. Prof. Zamir also points out that the Arab population could work through social organizations to realize their right to the equal allocation of state resources.

Prof. Zamir's recommendation to distinguish between rights that enable Arab society to maintain its identity and advance its cultural and religious interests without substantially harming the legitimate interests of the majority should be accepted, as opposed to national rights that threaten the majority population's national identity or legitimate interests.

### **Recommendations for Change in the Economic Sphere**

The position of Arabs in the Israeli labor market is extremely problematic, and the country's Arab population lags behind the Jewish population according to all standard measures (degree of employment, participation, wages, and sectoral and vocational breakdown). The government has many tools at its disposal to address these problems in order to effect change in the economic situation of the Arabs in the country. The following primary policy measures are recommended:

1. Encourage the demand for labor—This can be achieved by a wide variety of means, by establishing industrial areas (including advanced industry) in close proximity to Arab communities that offer a supply of relevant labor, and/or the establishment of joint Jewish-Arab industrial areas; developing the unrecognized Bedouin communities in the Negev in the field of employment, specifically by designating land for the establishment of trade and production areas; providing instruction and guidance in management and entrepreneurship, such as starting a business, recruiting and managing employees, financial management,

and forecasting of sales and purchases; subsidizing the establishment of new companies, especially small and medium-size businesses; providing assistance in acquiring credit from banks and funds (for example, through government funds for the provision of guarantees); requiring that companies receiving government aid must employ a percentage of Arabs that is commensurate with their percentage of the population, on the one hand but that also meet the company's needs in terms of skills; and taking more vigorous action to integrate Arab employees into the public sector, in accordance with the standing government resolutions.

2. Welfare-to-Work programs—In recent years, Israel has witnessed the implementation of a program designed to help workers make the transition from welfare to employment with the “From the Heart” (*mihalev*) program, which was subsequently replaced by the “Lights to Employment” (*Orot Leta 'asuka*) program. This program, which was terminated at the end of April 2010, has been a standard program for encouraging the transition to employment in the Western world. Israel's experience with such programs has been short in duration and limited in scope. The follow-up study by the Brookdale Institute and the National Insurance Institute in July 2009 pointed to successes of the Lights to Employment program; particularly in the Arab sector, it proved successful in the placement of individual men. Various bodies were critical of the program on the grounds of inefficient implementation; distortion of the incentives at the disposal of the private operators; fictitious implementation; lack of worker perseverance; and other factors. Some of these problems were rectified during the move to the Lights to Employment program.
3. Negative income tax/income grant—Negative income tax was put into effect in Israel beginning in 2008 in areas where the Lights to Employment program was being implemented, with the goal of expanding it over the entire country. If applied at a sufficient level, this tool can encourage participation in the workforce.
4. Subsidies of school education and higher education—Investment must be increased in the education system in order to raise the skill level and productivity of Arab employees, as this, in turn, will increase the production and wages of Arab employees. It will also help diversify the distribution of Arab men within different economic sectors and vocations. In addition to increasing the resources allocated to education, it is recommended to

expand the integration with the Jewish population, which will help the Arab sector more successfully integrate into the labor market. This can be accomplished through encounters between students and teachers and through the incorporation of Jewish teachers into the Arab education system and Arab teachers into the Jewish education system.

5. Professional training and employment guidance—Steps should be taken to achieve a more diversified job distribution for Arab men in order to prevent their over-concentration in physical occupations characterized by early retirement. Such measures should include increasing the resources allocated to elementary and post-elementary education and to higher education; providing assistance for professional retraining upon retirement from physical occupations; and professional training programs designed to adapt the abilities of skilled Arab workers in Israel to meet the needs of employers. It is also important to assist skilled Arab workers in looking for employment; for example, it is recommended to establish specialized centers, similar to what was done in the Lights to Employment centers.
6. Encouraging the employment of Israeli Arabs instead of foreign workers—Foreign and Palestinian workers are an alternative workforce, especially for Arab men in the building and agricultural sectors, and in certain industrial fields. The employment of Arab workers in their stead can be encouraged by implementing the already existing government resolutions regarding foreign workers, especially in the area of foreign employment taxation (the principle of the recommendation is to reduce the number of foreign workers in construction to zero and to limit the number of seasonal agricultural workers to 18,900 by 2015); greater enforcement regarding the employment of foreign workers without permits; subsidizing the employment of Israeli Arabs in certain occupations or sectors.
7. Supporting the employment of women—It is recommended to support the participation and employment of Arab women by establishing employment centers to provide information, connect employers with workers, and provide transportation services to work; subsidizing daycare centers, after-school childcare centers, private caregivers, and so forth in order to reduce the expenses of leaving the home to go to work; increasing the incentive to work and subsidize wages, perhaps by means of a countrywide distribution of negative income tax, in addition

- to increasing the negative tax; establishing high school study programs aimed at increasing among both men and women an awareness regarding workforce participation and the rights of women.
8. Encouraging physical accessibility of workplaces—It is recommended to encourage physical accessibility of workplaces by investing in suitable transportation infrastructure and means of transportation. In the short term, this will require government subsidy of potential employees, businesses, and transportation companies. In the longer term, it will require the significant improvement of this infrastructure in order to reduce the high cost of going to work. It is important to remember that plans to increase access of transportation to workplaces, including investment in transportation infrastructure within and between communities, have been drawn up, in addition to increasing the subsidy of transportation costs. In accordance with these plans, public transportation is slated to reach every community in the Arab sector within two or three years.
  9. Legislation against discrimination and increase enforcement—It is recommended to expand legislation regarding employment discrimination against Arabs and to enhance the enforcement of anti-discrimination laws. Among other things, it is possible to stipulate punitive measures in the law against employees who engage in discrimination, such as monetary fines, the revocation of licenses, and imprisonment; to use enforcement methods such as inspectors, prosecution authorities, and collection authorities in order to enforce standing or new legislation; and enact regulations for affirmative action, particularly with regard to Arab women.
  10. Employment of college and university graduates—Policy should be implemented to encourage successful matching between the education of employees and their profession, as this will help increase the productivity of the economy and improve employee satisfaction with their jobs. It may also have other positive impacts, such as encouraging the children of these employees to pursue higher education.
  11. The Government Authority for the Advancement of the Minority Sector—The continued and expanded operation of this authority should be ensured by suitable funding and detailed multi-year work programs, including timetables for implementation and the assessment of achievements based on clear output measures.

## **Recommendations for Change in the Arab Education System**

Analysis of the condition of the Arab education sector indicates the need for the following:

1. It is necessary to maintain full equality, while implementing affirmative action, in the allocation of resources for closing the gaps in construction, infrastructure, budgets, and manpower for meeting pedagogical needs (such as curriculum development and Arabic language text books);
2. The Arab education system should be allowed to adjust the educational content of textbooks and different curricula to reflect the national-cultural identity, history, and heritage of Palestinian Arab society;
3. The aims of Arab education should be anchored in law, similar to the aims of Jewish education, and full partnership of Arab professionals and public representatives in the development of pedagogical policy and the management of Arab education should be allowed;
4. An Arab education administration should be established, in which a pedagogical secretariat for Arab education would operate in coordination and cooperation with the Ministry of Education's general Pedagogical Secretariat;
5. The quality of instruction and learning in the Arab education system needs to be improved, with the aims of enhancing the accomplishments of school graduates of all ages; increasing high school graduates' chances of being accepted by and succeeding in institutions of higher education; and assisting those students who do not continue on to higher education to find their place in the labor market.

## **Recommendations for the Development of Arab Communities and Municipalities**

In recent years, Israeli governments have taken significant action aimed at developing Arab communities and municipalities. The crowning achievement of the institutional activity in this direction has been the effort to address the continuing lack of outline plans in the Arab sector as a key to stimulating processes of reform as it relates to the sector's housing crisis. The most recent government move, which was expressed in the recommendations of the "120 Day Team," reflected additional progress in addressing the housing crisis.

Nonetheless, the recommendations of the team also revealed the gaps between the recommendations of the Or Commission and the Lapid

Committee on the one hand, and the progress that has actually been made in the development of Arab communities on the other hand. Most importantly, it once again shed light on the major obstacles that still need to be eliminated so that significant progress in the areas highlighted by the two bodies can be achieved. Perhaps the most central of these issues is the need to allocate land in the Arab sector for residential construction and the development of employment areas.

In this context, it is difficult to escape the impression that the government effort to address the hardships of the municipalities has emphasized progress in the formal realm—such as in the drawing up of outline plans—but without dealing with the substantial internal and external obstacles. The difficulty of contending with these obstacles seems to derive from the fact that at least some relate to the very essence of the national conflict between Jews and Arabs, and dealing with them requires deep-seated transformation of fundamental concepts and government policy-makers.

Without entering into this charged discussion, below is a list of practical recommendations which, in our opinion, could advance the implementation of the recommendations of the Or Commission and the Lapid Committee.

1. Land Allocation—a key condition for making progress in local development is expansion of the jurisdiction of Arab municipalities. This will require the state to address the issue of land-usage reclassification for allocation to municipalities, in order to facilitate municipal building and development. In this context, it is worth noting that out of Israel's 1,187 communities (*yishuvim*), 134 are Arab and their combined jurisdiction covers only 2.5% of the land area of the country. The fact that the area of jurisdiction of Israel's Arab municipalities has not been increased over the years constitutes a significant obstacle not only for the advancement of new outline plans but also for the ability to propose solutions for housing shortages, the establishment of industrial areas, public areas, and so forth. In this sense, the state must contend with the difficulty of allocating new land to Arab municipalities.
2. Establishment of a New Arab City—Since the establishment of the state, Israel has witnessed the establishment of 700 new Jewish community but no new Arab community. The possibility of establishing a new Arab city is raised from time to time in Israeli discourse, but, for various reasons, has never been realized. However, this is a significant planning

option that offers a solution to some of the hardships facing the Arab population. By establishing a new planned city, the government would convey a high-level message that it is attentive to the needs of the Arab sector while a new city would also address some public hardships, notably the housing shortage, internal migration, and the development of employment and commercial zones.

3. **Systemic Development—Implementation of the recommendations of the Or Commission regarding Arab municipalities** will require dealing concurrently with a variety of interrelated issues and areas. The government activity thus far has been characterized by an attempt to deal with specific pieces of the problems and issues pertaining to municipal government (for example, the issue of outline plans) without taking into consideration the fact that contending with the housing problems of the Arab population needs to occur in conjunction with a broader assemblage of issues, including employment, illegal building, and the funding of municipalities, which are all interrelated. Only by addressing all of these areas will it be possible to improve the overall state of affairs. In this sense, the government and the different institutional parties must formulate system-wide solutions that take into account all the relevant obstacles and issues in order to increase the effectiveness of the outcome.
4. **The Regulation of Illegal Construction—The new outline plans** provide no clear answers regarding the houses that have been constructed in Arab communities without building permits. 170 existing unapproved structures remain in forty communities, and another 400 residential units remain outside the framework of the outline plans that have been updated and submitted to the planning institutions but have not yet been officially deposited. These twenty plans contain approximately 2,000 residential units that were built without authorization within the borders of municipal jurisdiction and have not been granted legal status. Thirty-two Arab communities contain 2,570 residential units that were built without permits. This situation poses great difficulty for the municipality, not only in terms of dealing internally with the issue of illegal construction but also with regard to the state authorities, which demand that the Arab communities contend with the issue. For this reason, it is recommended that the government normalize the situation through a process of whitewashing and authorization of the illegal construction,

which continues to be a source of problematic tension in the relations between the establishment and the municipalities on the one hand, and the Arab population on the other.

5. **Making Progress on the Issue of the Unrecognized Villages in the Negev**—The effort to regulate the Bedouin settlements in the Negev has run into difficulties. We believe that it is necessary to continue working on this issue, given the long-term implications that continuing the status quo in the Negev may have. Even if the time is not yet ripe to reach a comprehensive settlement, it is incumbent upon the government to renew regular dialogue with local representatives of the Arab population of southern Israel, not only in order to pave the way for an overall settlement in the future but also to reach a solution for more concrete issues facing the Bedouin population. The lack of discourse with representatives of the Bedouin about the reality of the overall process underway in the Negev—with the movement of some IDF bases to the area—ultimately could not only increase the civil disparities between Jews and Arabs and position the latter as peripheral to the economic development of the Negev but could also exacerbate tensions between the establishment and the Bedouin population.

### **Actions to Mitigate the Phenomena of Hatred and Racism**

The denunciations of the phenomena of hatred and racism by leaders and public figures, Jewish and Arab alike, have thus far been relatively weak. At the same time, neither the law enforcement system nor the education system has succeeded in significantly reducing the manifestations of hatred, violence, and racism within society as a whole, and toward Arabs in particular. The phenomena of hatred and racism must be addressed in parallel in the following spheres:

1. **The legal sphere**—Israeli law contains laws aimed at preventing racism.<sup>23</sup> The state's legal and law enforcement authorities must intensify the enforcement of these laws in practice, including laws regarding racist expressions and acts of violence on the playing field. State enforcement is also required vis-à-vis bodies employing policies of discrimination on racial grounds. The precedential measure taken by the Ministry of Economy's Equal Employment Opportunities Commission—of investigating the Beitar Jerusalem soccer team for its discriminatory

policy of refusing to employ Arab soccer players—is an example of an effective way of dealing with the phenomenon.<sup>24</sup>

2. The educational sphere<sup>25</sup>—The issue of racism must be incorporated into the yearly working plans of the Ministry of Education and included in the multi-year program “The Other is Me” as a distinct subject derived from the overall theme. It is also necessary to formulate a system-wide educational program for contending with racism in schools in cooperation with academics and representatives of organizations and experts in the fields of knowledge (the Pedagogical Secretariat), social education (the Society and Youth Administration), and psychology, and suitable resources should be allocated for the program’s implementation. In addition, it is important to strengthen education for shared living, with an emphasis on connections and linkages among three primary components: educational, experiential/practical, and the emotional aspects.
3. Statements of leaders and public and educational figures—Jewish and Arab leaders and public and educational figures must make their voices heard loudly in their condemnation of manifestations of hatred and racism and explain their negative impact on society and the country. Their statements should reflect the insight that preventing racism has nothing to do with political or party views but rather is a precondition for ensuring legitimate and worthy political discourse among all groups in society.

### **Conclusion—Time for a Conceptual Change on the National Level**

Analysis of the actions that have been taken to advance the status of Arabs in Israel thus far reveals progress in implementing the recommendations of the Or Commission and the Lapid Committee in almost all areas, but it has been slow and insufficient. This is due to the lack of an overarching conception of the integration of Arab society; budgetary and bureaucratic obstacles; and social and political obstacles.

President Reuven Rivlin believes that the social reality that has emerged in Israel, which includes four major “tribes”—the Zionists, the religious, the ultra-Orthodox, and the Arabs—requires a shift from the accepted approach of majority-minority relations to a new approach of a partnership among the different sectors based on four fundamental elements: the sense of security

of each sector, mutual responsibility, fairness and equality, and the creation of a shared Israeli identity (“shared Israeliness”).

President Rivlin’s call for the formulation of a vision of Jewish-Arab civil partnership—concerned with the shaping of a civil language, the building of a joint economy, and the crystallization of a “shared Israeliness”<sup>26</sup>—is consistent in principle with the Or Commission’s recommendations for improving the situation of the Arabs in Israel.<sup>27</sup> And like the Or Commission that preceded him, President Rivlin has emphasized the importance and urgency of addressing the status and advancement of Arab society in Israel as the most sensitive issue on the state’s agenda. Both the recommendations of the Or Commission and President Rivlin’s call for “civil partnership” recognize the fact that Israel’s Arab population is an indigenous community with a national and cultural identity. Both the commission and the president regard the advancement of Arab society and its integration into the social and political life of the state on the basis of full and equal citizenship as an interest of supreme national importance for the social, economic, and ethical strength of Israel.

The Or Commission noted that the lack of substantial collective rights of Israel’s Arab minority weakens its status. However, it also explained that “the state has recognized the separate existence of the Arab sector as a population that is not meant to assimilate into majority society but has not based this separate existence on a binding legal foundation.” At the same time, the Or Commission refrained from adopting a position that required the provision of collective rights to the Arab sector in various areas; rather, it made clear that both sides are highly sensitive to this charged issue. In this context, the Or Commission referred to the testimony of the former prime minister Ehud Barak who maintained that Israel’s Arab population possesses communal rights—as a collective—to its own heritage and culture but distinguished between such rights and collective national rights that threaten the state’s fundamental identity as a Jewish state. According to the commission, “the solution for the tension arising from this distinction is no simple matter. The discussion of these issues is of a distinctly political nature, and should be clarified through dialogue conducted in suitable forums.” The former High Court justice, Mishael Cheshin, also believed that the recognition of collective rights for the Arabs of Israel is a political act, and that the sanctioning of this act rests with the country’s political authorities.

In the spirit of the approach of President Rivlin and the recommendations of the Or Commission, Israel can be defined as a “titular state” that is home to two national communities—Jewish and Arab—who together constitute one “civil community” with equal rights and equal obligations.<sup>28</sup> Since its establishment, the State of Israel has implemented specific arrangements by which it has granted collective rights to Arabs in a number of areas, such as education and religion. However, the Israeli legislator and legal system has yet to recognize Israel’s Arab population as a national majority that is entitled to collective rights. From a legal perspective, these arrangements were based on rights to which individuals were entitled, and not on collective rights. This reality is consistent with international law, which defines “negative obligations,” which require the state to refrain from intervening and to allow the minority to live within it and to practice its religion, speak its language, and maintain its culture. The obligation of non-intervention also includes the positive obligation to take action against the state or individuals who limit these liberties. However, international law does not charge states with the positive obligation of recognizing the minority as a national minority that possesses collective rights.

From time to time, Arab civil organizations have petitioned the High Court on civil issues in an attempt to extract collective rights and to impose positive obligations on the state, basing their appeals primarily on the right to equality. Among the justices who are called upon to address the petitions, disagreements have prevailed about whether or not the court is able and is authorized to create collective rights, and some believe that the entire issue should be subject to the decision of the political authorities.

There is typically consensus in Israeli public discourse regarding the Arabs’ right to full equal civil rights, as well as some rights that are collective in nature. The disagreement revolves around the question of whether to leave the issue of collective rights in the framework of the existing arrangements, or to ground it in principled legislation that recognizes the Arab minority as a national minority entitled to collective rights. It is clear that recognizing the Arabs as a national minority with collective rights through legislation may obligate the state to some “positive obligations,” which may challenge the state’s Jewish national character and have far-reaching implications for Israeli society and the economy. The fears of this reinforce the tendency (among Jews) to avoid framing the matter in legislation and to leave it for political

dialogue between the two sides, which may allow for flexible solutions and arrangements. In any case, recognition of the Arabs as a national minority will require defining the scope of their collective rights.

It is therefore clear that the time has come to consider a fundamental conceptual change, on the national level, regarding the state and status of the Arabs in Israel. Such a change could rely on the principle guidelines proposed by President Rivlin, which are consistent with the recommendations of the Or Commission (for details, see Appendix 1: “The Principles of President Reuven Rivlin and the Recommendations of the Or Commission”), while addressing the existing approaches to this issue in the public discourse (for details, see Appendix 2: “Approaches to Normalizing the Status of the Arabs in Israel”).

### **The New Five-Year Plan (2016–2020)—A Light at the End of the Tunnel?**

At the end of 2015, the Israeli government approved a five-year plan (2016–2020) for the development of Arab society in Israel, at a total cost of NIS 15 billion. The plan was drawn up by the Office of the Supervisor of Budgets in the Ministry of Finance in conjunction with representatives of Arab society. The plan is to be put into action by the Ministry of Social Equality in coordination with the government ministries and the Budgets Division of the Finance Ministry, and in cooperation with representatives of Arab society. The plan’s uniqueness lies in the change it represents in budgetary allocation to Arab society; it allocates funds to all spheres of development in proportion to the relative size of the Arab community within the overall Israeli population, and this will remain the standard working practice of government ministries even beyond the five years covered by the plan.<sup>29</sup>

On this basis, there appears to be a genuine chance for reducing the disparities and integrating Arabs in employment in high-level professions. This, however, will also require a change in atmosphere and in the attitude toward the country’s Arab population espoused by the state leadership and the Jewish public. It will also require embracing a vision and an all-encompassing view of closing the gaps between Arab and Jewish society in Israel and achieving full social and economic integration of Israel’s Arabs as citizens with equal rights and opportunities.



# APPENDIXES



## **Appendix 1: The Principles of President Reuven Rivlin and the Recommendations of the Or Commission**

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### **General**

President Reuven Rivlin's call for the establishment of a civil partnership between the sectors of Israeli society, which envisions the formation of a common civil language, the building of a joint economy, and the crystallization of a "shared Israeliness,"<sup>1</sup> is consistent in principle with the Or Commission's recommendations for improving the conditions of Arabs in the State of Israel. This includes:

1. Two national identities in the State of Israel: Jewish and Arab
2. Eliminating threat and fear and instilling a sense of security
3. A joint democratic framework for all citizens of the state
4. Fairness and full equal rights for Jews and Arabs in civilian fields
5. Nurturing the identity and culture of Jews and Arabs
6. Equal access to resources and reducing gaps in budgeting, infrastructure, and land
7. Equal obligations and mutual responsibility.

### **Two National Identities in the State of Israel: Jewish and Arab** *President Rivlin*

Jewish-Arab relations are currently permeated with the troubling feeling of a "zero-sum game" between identities and national narratives. The Jews' independence is the Arabs' Nakba, and each side constructs its identity as the negative of the other's identity. The partnership among Jews cannot be based on the obfuscation of identities. Our pride, Jews and Palestinians, lies in the dignity and the importance we assign to the chain of generations, the intellectual property we have inherited from our ancestors, and our bond to our land. We cannot give this up, nor do we wish to. Every attempt to effect change by making a demand or expecting the other side to give up its past

and its identity is doomed to failure, not only because doing so is unethical, but also it would be ineffective.

Despite the sense of threat and fear, Israel's Jewish population needs to understand and recognize that the Arab population is not an eclectic collection of individuals; just as it is not forced to give up its past and its heritage, the Jewish public needs to recognize that the Arab population is part and parcel of this country—a population that is unified around a collective identity and culture. To the same extent, and despite the current threat and fear, Palestinian history and consciousness must not be defined by an opposition to Zionism or to the Jewish people.

### ***The Or Commission***

The Arab minority population is an “indigenous” population. The Arab minority's self-conception as an indigenous minority strengthens its self awareness and the validity of its claims in clinging to its ancestral inheritance. The Arab minority are the descendants of a majority population that only became a minority in recent times; from a national perspective, the Arab minority is part of the Palestinian people and the broader Arab nation.

Arab citizens must bear in mind that Israel represents the realization of the yearnings of the Jewish people for a state of its own—the only state in which Jews are a majority and in which the ingathering of the [Jewish] exiles is a fundamental principle—and that this is the essence of the existence of the state in the eyes of its Jewish citizens. The Jewishness of the state is a constitutional given, which is partly reflected in the centrality of the heritage of Israel and the Hebrew language in its public life.

### **Eliminating Threat and Fear and Instilling a Sense of Security** ***President Rivlin***

The different sectors of society must know that entering into civil partnership does not involve giving up the fundamental components of their identity. Ultra-Orthodox, secular, religious, and Arab individuals must not feel that their souls are in danger or under threat—whether this be the ultra-Orthodox approach to education in small and large yeshivas; the concept of national-religious redemption; secular Jews' liberal way of life; or Palestinian Arab identity. The sense of security that our basic identity is not threatened is a fundamental condition for all of us to be able to reach out to the other and

to understand their pain and fears, and for the ability of all of us to establish here a partnership among the different sectors. We cannot do this without getting to know one another, without understanding what is most precious to each sector, and without knowing how to respect and safeguard it, even when this appears difficult and even outrageous.

Jews and Arabs must understand the basic feelings of threat and fear that each holds vis-à-vis the other. The major challenge is to establish trust between the two sides. The roadmap for the establishment of this trust passes through steps in the realms of symbolism, identity and culture, as well as in the practical, economic, and social spheres. Both sides must understand and accept the fact that positive identity, a connection to history, and belonging to a people, a culture, and a heritage, are not a threat. On the contrary; despite the tension and the challenge involved, these things constitute the essential basis and foundation for the ability to accept and understand the identity of the other side.

### ***The Or Commission***

The Arab minority's national identification over the years with the Arab countries and with the aspiration of establishing a Palestinian state—and in some cases their social and family identification—has caused the Jewish majority to feel that the country's Arab population constitutes a potential threat and therefore must be subjected to a close system of control. This security-oriented approach, which, according to the Arab minority, is inconsistent with civil rights, has intensified their alienation from the state.

Indeed, we must strive to take active steps to ensure the peaceful coexistence of Jews and Arabs in this country. Jews and Arabs living alongside one another is a fact of life, leaving the two sides only one practical option: coexistence with mutual respect. Coexistence is no simple concept. It presents challenges that are not easy for either side. It obliges each side to listen to the other, understand its sensitivities, and respect its basic rights.

## **A Joint Democratic Framework for all the Citizens of the State**

### ***President Rivlin***

Despite the challenges posed by a new Israeli order, we need to know that the emerging Israeli mosaic is not a decree but rather a great opportunity.

It encompasses cultural wealth, inspiration, humanity, and sensitivity. The new Israeli order must not push us toward isolation and separation. We must not give up the concept of Israeliness; rather, we must open its gates and expand its language.

The partnership required by the new Israeli order needs to be implemented in every sphere of our lives. We will need to understand how to engage in education for partnership in the context of separate education systems; how to manage an economy and a public sector that excels in employment diversity; how communications successfully can also serve as a shared platform; how academia does not compromise on quality but can create a culturally-sensitive environment; and how politics and political discourse should take into account the sensitivities and fundamental elements of partnership.

Establishing this partnership is an undertaking that today demands from all of us an immense collective effort.

### ***The Or Commission***

There is a prevailing feeling among the Arab minority that the Israeli democracy is not as much of a democracy for them as it is for the Jewish majority (a political system that is referred to in some discourse as “ethnic democracy” or “ethnocracy”). The Arab minority also finds it extremely difficult to accept the state’s definition as the state of the Jewish people, which grants rights to Jewish immigrants and new citizens, which the Arabs, as a minority, do not enjoy.

Some argue that a fundamental contradiction exists between the principles of a majoritarian nation-state and those of liberal democracy. The Jewish majority must bear in mind that the state is not only Jewish but also democratic; equality is a major component of its constitutional structure; and the prohibition of discrimination is applicable to all its citizens. It must understand that the events that transformed the Arabs into a minority in the country were for them a national tragedy, and their integration into the State of Israel involved painful sacrifices on their part. The Jewish majority must respect the identity, culture, and language of the Arab citizens.

## **Fairness and Full Equal Rights for Jews and Arabs in Civilian Areas of Life**

### ***President Rivlin***

To ensure the partnership between us, we will need to make sure that no citizen is discriminated against—for the better or for worse—due to sectoral affiliation. The current reality of built-in disparities between the partners—in budgets, infrastructure, and land—is unacceptable. When poverty in Israel is also characterized by distinct tribal aspects, on the one hand, and when most senior positions in the economy are held by members of one or two sectors, on the other hand, a shared future cannot be built here. To establish the partnership between us, we will need to ensure an accessible “Israeli dream” that can be achieved by all young men and women, who will be assessed only according to their abilities, and not according to their ethnic origin.

Equal access to resources, options, and opportunities in the labor market is not only a necessary condition for trust but also a democratic state’s fundamental obligation to its citizens.

### ***The Or Commission***

A primary goal of state action must be the provision of true equality to the country’s Arab citizens. Israel’s Arab citizens’ right to equality stems from the essence of the State of Israel as a democracy and from the nature of this right as a basic right of every citizen. Discriminatory treatment contradicts the basic right of equality, which many regard as an integral part of the right to human dignity. This is undoubtedly true in the case of discrimination on the grounds of race or nationality. Therefore, the state must take action to wipe clean the stain of discrimination against its Arab citizens, in all its form and manifestations.

## **Nurturing the Identity and Culture of Jews and Arabs**

### ***President Rivlin***

When we look for fundamental confidence-building measures between Jews and Arabs, we must work to nurture the positive identity of each side, and from there to reach out to the narrative and culture of the other side. This reaching out is manifested first and foremost in language. The Hebrew language must be taught thoroughly throughout the Arab population.

However, the time has also come for the Arabic language—including its spoken form—to be taught to the Jewish population. Language is the way from the ear to the heart.

We must build a cultural bridge based on respect and understanding. The best way to get to know a people is through its language, its poetry, and its culture. Cultural familiarity is what leads to respect and even to true proximity. We are faced with the task of building a bridge between cultures. Western and Arab cultures on the one hand are extremely close, and on the other hand, they so lack the ability to communicate with one another, to reach one another through listening, understanding, and mutual respect. Here lie the keys to partnership between Jews, Muslims, Druze, and Christians. They are not given only to the political echelons or the law enforcement and legal authorities. They are given to each and every one of us. On the Eid al-Adha holiday, for example, there are symbols and principles that connect us all, as the children of Abraham, to those who express the religious uniqueness of each ethnic group.

### ***The Or Commission***

The establishment of the state has been ingrained in the memory and consciousness of the Arab minority as the Nakba—the most difficult collective trauma in its history—and with a feeling that the state was established on the ruins of the Palestinian community. This situation makes it difficult for the Arab minority to identify with the symbols and substance of the state, which express praise for the Jews' victory in the conflict.

Perhaps the time has come to also give expression in public life to the common denominator of the entire population, by adding state events and symbols with which all citizens can identify. It is fitting to find ways to strengthen the Arab citizens' sense of belonging to the state without doing injury to their sense of belonging to their culture and their community.

During the initial and formative years of Israel's statehood, it was accepted in principle that the state would not aspire to assimilate the Arab minority into the society of the Jewish majority but rather would enable it to maintain separate systems of culture, education, and religion. The Jews regarded the fostering of the unique Jewish culture as the very purpose of the state, and the Arabs, on their part, regarded the preservation of their separate identity

as a national mission of supreme importance. The former did not want to assimilate the latter, and the latter did not want to be assimilated.

Over the years, the Arab population and its leaders have raised different claims regarding the status of Arab culture and Arab symbols in the state. For example, the leaders of the country's Arab population have claimed that the state holidays that were adopted all related to Jewish-Zionist content, and not even one expressed substance shared by both sectors.

## **Equal Access to Resources and Reducing Disparities in Budgeting, Infrastructure, and Land**

### ***President Rivlin***

Courageous action must be taken to reduce the immense disparity in budgeting, infrastructure, and land. Equal access to resources, options, and opportunities in the labor market is not only a necessary condition for trust but also a democratic state's fundamental obligation to its citizens.

The new government now has the opportunity to take a significant step in establishing trust between the sides. After sixty-seven years during which not a single new Arab settlement or city was established, the time has come to take significant steps toward the establishment of a new Arab city—the first ever in Israel. Government Resolution No. 3810 regarding this matter was approved in July 2008, and the planning and building processes were approved last year by the National Council for Planning and Building. Toward 2020, I hope, and believe, that this city should not only be on the map but on the ground.

### ***The Or Commission***

The Arab sector has legitimate needs stemming, among other things, from natural growth. The state must allocate it land according to egalitarian models and principles, as it does in other sectors. Suitable planning arrangements should be decided upon as soon as possible to prevent the portion of the illegal construction that is caused in part by the lack of authorized plans that facilitate the receipt of building permits.

The state must initiate, develop, and operate programs, with an emphasis on budgets, that will close gaps in education, housing, industrial development, employment, and services. Special attention should be paid to the living conditions and the hardships of the Bedouin. This issue can no longer be

ignored or marginalized. The state, through its most senior officials, must work to close these gaps quickly and in a clear and energetic manner, determining clear and tangible goals and definite timetables.

## **Equal Obligations and Mutual Responsibility**

### ***President Rivlin***

When no tribe is a minority, no side can evade bearing responsibility for the destiny and future of the State of Israel and the entire Israeli population. Thus, no tribe is exempt from proposing solutions to contend with the challenges of ensuring the security of the state and economic growth, or from preserving Israel's international standing as part of the family of nations. Partnership imparts responsibility.

The Arab population needs to carry out confidence-building measures vis-à-vis the Jewish population and the State of Israel. The Jewish population has, and should have, no expectations that Israel's Arabs will joyfully sing the national anthem. However, it may be justifiably and understandably expected of them to accept the rules of civil democracy and demonstrate both obligation to the rules of the game and a desire to take a significant part in it, for the benefit of Israeli society as a whole. On this basis, Israel's Jewish population expects and will continue to expect to hear clear condemnation of those within the Arab population who continue to join forces with our worst enemies and who strive to undermine Israel's right to exist. It will also expect and continue to expect from the Arab population a sense of responsibility and identification, expressed by community and civilian service and pursuit of the public interest, among other things.

We are not willing to abandon the arena, the village square—whether concrete or virtual, in the street or on Facebook—and to fall prey to the violence that is raging. Internalizing the extent of this personal responsibility—the responsibility of the individual for himself, his surroundings, the religious community in which he lives, the professional community in which he works, whether legal, economic, or public—is the first step on this path. This, I believe, is the beginning of the rectification of society as a whole.

Genuine change for the better, in all realms of life, can occur only when all sides bear responsibility, and only on the condition that no party shifts the responsibility that was placed on its shoulders to the shoulders of another.

Eliminating all manifestations of violence begins with assuming responsibility, which is personal and community-based no less than it is national.

### *The Or Commission*

The leadership of the Arab sector must demonstrate greater responsibility in the messages it conveys and in its actions. The articulation of praise for violence as a means of achieving goals, even if they are legitimate, is inconsistent with the obligation of the leadership to act responsibly.

In no proper governing regime does the right to protest include the right to engage in severe rioting or to attack innocent civilians or security force personnel.

It can also be expected that when engaging in protest activities, the arrangements required to maintain order will be made ahead of time. In this context, the leadership must convey a clear message to the public and to back it up with the allocation of staff and security personnel to maintain order in practice.

## **Appendix 2: Different Approaches to Normalizing the Status of Arabs in Israel**

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The following approaches to normalizing the status of Arabs in Israel have been articulated by individuals from four different groups in Israeli society:

1. Former High Court justices (Aharon Barak, Mishael Cheshin, Yitzhak Zamir, and Dalia Dorner)
2. Jewish academics from the fields of law, political science, the social sciences, and history (a multi-disciplinary team headed by Prof. Yitzhak Reiter, Prof. Asher Susser, Prof. Sammy Smooha, and Prof. Ruth Gavison)
3. Jewish political figures (Avigdor Lieberman, Moshe Arens, and Naftali Bennett)
4. Arab academics and civil society activists from various disciplines (authors of the four Vision Documents, including: Dr. Yousef Taysir Jabareen, Dr. As'ad Ghanem, Prof. Nadim Rouhana, Dr. Thabet Abu Rass, Prof. Aziz Haidar, Prof. Rassem Khamaisi, Dr. Khaled Abu-Asba,

Dr. Adel Manna, Dr. Muhammad Amara, Dr. Hala Espanioly, Member of Knesset Aida Touma, and the writer Salman Natour).

### **Approaches of Former High Court Justices**

***Aharon Barak: There is no contradiction between the State of Israel as a Jewish and democratic state and the absolute equality of all its citizens***

1. The “core” attributes of the State of Israel as a Jewish state have a Zionist and heritage-related element, including, at its very heart, the right of every Jew to immigrate to the State of Israel, where they constitute a majority, and also Jewish heritage, which is a central component of the state’s religious and cultural heritage.<sup>2</sup>
2. There is no contradiction between the values of the State of Israel as a Jewish and democratic state and the absolute equality of all of its citizens. On the contrary: equality of rights for all people in Israel, regardless of their religion or nationality, is derived from the values of the State of Israel as a Jewish and democratic state.<sup>3</sup>
3. Arabic is the language of the largest minority in Israel, which has been living in Israel since time immemorial, and it is justified for it to appear on city street signs, in the same cities that have a significant Arab minority.<sup>4</sup>
4. The demand that Israel be “a state of all its citizens” does not necessarily negate the existence of the State of Israel as a Jewish and democratic state, if all that is being demanded by this aim is equality between all the citizens of Israel. In contrast, if the aim is intended to harm the rationale that lies at the foundation of the state’s establishment and, in doing so, negates Israel’s character as the state of the Jewish people, then this does harm the core attributes characterizing the State of Israel as a Jewish state.<sup>5</sup>

***The late Mishael Cheshin: Israeli law recognizes individual rights only. The authority to recognize collective rights belongs to the political authorities***

1. The rights recognized by Israeli law, including those of Arabs, are rights borne by the individual. Israeli law does not recognize a collective right, with a corresponding “positive obligation” to nurture the unique identity and culture of a certain group within the population.<sup>6</sup>

2. For example, the state is under no obligation to add Arabic writing to city signs in all cities in Israel, as Arabs are not recognized as a national and cultural minority group that is entitled—by means of the Arabic language—to preserve and nurture its separate national and cultural identity.<sup>7</sup>
3. A major disparity exists in the allocation of budgets and resources to the general population as opposed to the Arab ethnic groups. The principle of equality must be applied to the Arab minority, especially regarding the equal allocation of budgets and resources. However, in this context, the principle of equality stems from the fundamental principle of the prohibition of discrimination between citizens, and not from recognition of a collective right, which is the concern of the legislative authority.<sup>8</sup>
4. The recognition of collective rights for Arabs in Israel is a political act, the authority for which rests with the country's political authorities.<sup>9</sup>

***Prof. Yitzhak Zamir: The court is authorized to develop collective rights. Action must be taken to realize the rights established by law***

1. The major problem lies in the failure to put into practice rights that are anchored by law, and it is necessary to fight to realize these rights, of which the Arabs in the country have thus far been deprived.
2. The right to the equal allocation of state resources is not limited to an individual right but rather is also a distinctly collective right of great practical importance.<sup>10</sup> In principle, the High Court is authorized to determine and develop collective rights and is worthy of doing so. This includes collective rights for the Arab population.<sup>11</sup>
3. Greater use should be made of the High Court to actualize the right to equal allocation of state resources for the Arab population, whether financial resources or resources of other kinds. For example, the existing gap in the level of infrastructure of Arab localities and Jewish localities derives from the deprivation of Arab localities in the allocation of state resources, among other things.
4. The ruling that established the right of Arab communities to receive financial allocations from the Ministry of Religious Affairs for the maintenance of cemeteries, on the basis of equality with Jewish communities, indicates a way in which the Arab population can work (by

means of social organizations) to actualize its right to equal allocation of state resources in other contexts as well.<sup>12</sup>

5. A distinction should be made between rights that allow the Arab minority to maintain its identity and promote its cultural and religious interests, for example, without fundamentally harming the legitimate interests of the majority, and national rights that threaten the national identity or legitimate interests of the majority.<sup>13</sup>

***Dalia Dorner: The state must fulfill its promise of full equality of rights for Arabs and allow them to live in their language<sup>14</sup>***

1. Although Israel was established in the shadow of the Holocaust as a state that was meant to assemble the Jewish people in its homeland, the Declaration of the Establishment of the State promised that the state would maintain complete equal rights for all its citizens, regardless of religion, race, or sex, and would develop the country for the benefit of its inhabitants. Due to the circumstances of the time, however, this commitment has not been fulfilled.
2. In answers conveyed to the High Court of Justice in response to petitions, right-wing and left-wing Israeli governments have explicitly acknowledged that Arabs had been discriminated against. Despite promises that this would be rectified, this has never occurred. Equality must be established for Arabs in all areas, as this is required under the law and is an ethical obligation. It is also a practical issue: it is not beneficial for a state to exclude 20% of its population.
3. Although there are laws and judicial rulings that guide toward equality, as in the matter of due representation, they are not being implemented as they should and it is being done at an insufficient pace. For this reason, alongside these laws and rulings, achieving equality requires a vibrant and determined civil activity.
4. Article 82 of the Palestine Order in Council imbues the Arabic language with the status of an official language of the country. The official status of the Arab's language is also derived from the Broadcast Authority Law, the State Education Law, and the content of the Declaration of the Establishment of the State.
5. The state must provide the Arab minority with the possibility of living in the State of Israel in its own language. It must be assumed that Arab

citizens of Israel may know only Arabic, or, in any event, they know only Arabic well. This obligation is necessitated by the principle of equality, which is not only a democratic value but also a Jewish value stemming from the essence and character of the State of Israel.

6. Whereas adding Arabic text to signs is consistent with the official status of the Arabic language, it does not detract from the preferred status of the Hebrew language. Taking all this into consideration, the state is also obligated to post signs in Arabic.

### **Approaches of Jewish Academics**

*A research group led by Prof. Yitzhak Reiter: Legal recognition of the Arabs as a national minority and expansion of their collective rights<sup>15</sup>*

*The principles of the approach:*

1. Israel is the state of the Jewish people and all its citizens. Arab citizens should be assigned constitutional status as a national minority group that is entitled to equal rights and due representation.
2. Definition of the term “Jewish state” by law shall be done in a way that does not exclude Arabs and cannot serve as an excuse or motivation for discrimination on the basis of nationality of religion.
3. Representatives of the Arab population shall be incorporated into the government and Arab parties shall be incorporated into the coalition.
4. Equality in obligations shall be established, including the re-establishment of a framework for civilian service for Arabs in cooperation with representatives of the country’s Arab population, with the aim of transforming it into compulsory service in the future.
5. Reform shall occur in the allocation of land, including realistic and appropriate compensation—monetary or land—for the loss of land. Arabs should be represented on planning committees on all levels, proportionately to the percentage of Arabs living in the area in question.
6. The issue of the “unrecognized communities” shall be resolved and normalized, and the disagreement regarding the lands claimed by the Bedouin in the Negev shall be resolved by means of a generous compromise.
7. The Knesset shall enact a law to establish an authority for the equality and integration of the Arab minority, which will enjoy government

funding and executive authority and will operate under the supervision of a Jewish-Arab public council.

8. The Knesset shall establish a parliamentary body to supervise government action regarding the promotion of the principles of shared citizenship and the equality of the Arab minority.
9. The role of the minister of minority affairs will be terminated and the prime minister will return to having the ultimate responsibility for the government's dealings in issues relating to the civil equality of Arabs.
10. The Jewish and Arab leaderships will be given responsibility for advancing a discourse of legitimization vis-à-vis members of the other national group.

***Prof. Asher Susser: The Arab minority must be recognized as a national minority entitled to collective rights*<sup>6</sup>**

1. Israel is the nation-state of the Jewish people, and therefore the improvement of relations between Jews and Arabs in Israel does not need to involve the Jewish majority's relinquishment of its national rights and its national symbols. Accordingly, the notion of "a state of all its citizens," as a replacement for the definition of Israel as a Jewish state, is unacceptable.
2. Zionism has won legitimacy in its own eyes and in the eyes of the nations by recognizing the other and agreeing to the country's partition into two states. However, legislative initiatives aimed at ensuring Israel's character as the state of the Jewish people—by reducing the status of Arabs, doing injury to their civil status, and preferring the state's definition as a Jewish state to the state's democratic character—is legislation that does not recognize the other and its place in the country. It is also doubtful whether this legislation accepts the principle of two states for two peoples.
3. In order to actualize the self-determination of Jews in Israel, and to maintain the legitimacy of the state of the Jews, it is necessary to support the establishment of a Palestinian state alongside Israel and to recognize the Palestinian Arab minority in Israel as a national minority entitled to equal civil rights and collective rights.
4. Recognition of the Palestinian Arab minority as a national minority will strengthen the Jewish character of the State of Israel.

***Prof. Sammy Smooha: There is no contradiction between the Jewish and democratic character of the state on the one hand, and recognition of the Arabs as a Palestinian Arab national minority on the other***<sup>17</sup>

1. There is no contradiction between the Jewish and democratic character of the state on the one hand, and recognition of the Arabs as a Palestinian Arab national minority on the other. Most Arabs in the country recognize the Jews' right to self-determination and to a state. Recognizing their nationality will only institutionalize the Jews' status as a national group that constitutes a majority in the country and determines its symbols and government.
2. It is possible to recognize and engage in negotiations with the Arab leadership and to grant the Arabs, as a national minority, collective rights—such as cultural autonomy—without detracting from the state's strength and ability to govern and to maintain itself as a Jewish state.
3. However, the State of Israel will have difficulty adopting such a policy as long as the Israeli-Palestinian conflict continues, and, therefore, the argument surrounding the provision of collective rights to Arabs will continue to intensify.

***Prof. Ruth Gavison: Shared citizenship in Israel***<sup>18</sup>

1. The safeguarding of democratic principles, human rights, and the principle of non-discrimination do not necessarily require the negation of the state's particularist Jewish character. The legitimacy of the Jewish state and its character can be justified based on the Jews' right to self-determination.
2. The state cannot discriminate among its citizens on grounds of national origin. However, the Jewishness of the state may justify implementing preferential policy regarding the interests of the majority group, when such policy is required to defend the vital interests of the national group—which are the same interests that justified the recognition of self-determination in the first place.
3. In order to create broad civil unity and facilitate meaningful partnership among all citizens of the state, regardless of religion, race, or nationality, and to avoid impairing the possibility of reaching practical settlements, it is preferable to leave the “identity” of the state vague and limited and subject to public political discussion, and not to attempt to determine the issue through constitutional anchoring in accordance with legal standards.<sup>19</sup>

## **Approaches of Jewish Political Forces**

### ***Member of Knesset Avigdor Lieberman: The plan for land and population exchanges***

1. “Every solution must include maximum separation between the two peoples.”<sup>20</sup>
2. The Arabs in Israel constitute a demographic problem that continues to grow. They threaten the Jewish character of the state and do not serve in the army, and their allegiance to Israel is in doubt.
3. Israel will annex all the large settlement blocs in the West Bank, such as Kiryat Arba, Ariel, and Maaleh Adumim, and in exchange will transfer the control over the Triangle and Umm al-Fahm, including their Arab inhabitants, to the Palestinians.
4. In this framework, approximately half of the Palestinian citizens of Israel will be transferred to the Palestinian Authority. They will lose their citizenship, unless they choose to immigrate to Israel in its new borders and swear allegiance to the state.

Note: Thus far, no detailed plan has been issued, and the legal, social, and operative process for implementing this proposal has yet to be addressed. In addition, there is a lack of clarity regarding the question of whether the plan would depend on the agreement of the Arab citizens or would be realized without it.

### ***Moshe Arens: Israeli citizenship for Palestinians***<sup>21</sup>

1. Israel will establish sovereignty in Judea and Samaria, and the Palestinians will be offered Israeli citizenship and be granted the right to vote in the Israeli elections. This will result in a significant change in the country’s demographic structure, but it will continue to exist as a democratic state.
2. Integration of the Palestinian population of Judea and Samaria into the Israeli social fabric is possible. The Druze and Circassian populations of Israel can serve as an example of successful integration into society, primarily as a result of their service in the IDF. Many Christian citizens are gradually integrating into society without government assistance.
3. The Muslim minority, which makes up 17% of the country’s population, still does not feel at home in Israel and is far from enjoying equal opportunities. Much of the blame for this situation belongs to the

governments of Israel over the years, which have not engaged in effective action to integrate Muslim citizens into the state.

***Member of Knesset Naftali Bennett of the Beit HaYehudi Party:  
Supports full rights for the Arab minority***<sup>22</sup>

1. Opposition to any kind of Palestinian state west of the Jordan River. The Palestinian leadership does not want just Judea and Samaria but rather the entire State of Israel, and there is therefore no ideal solution in our generation.
2. The State of Israel is a Jewish state and the state of the Jews and has a democratic form of government. Action must be taken to strengthen the Jewish character of the state and fight against anyone who takes action to turn Israel into a “state of all its citizens.” At the same time, the full rights of minorities must be supported, including those of the Arab minority.
3. Today, the State of Israel responds with restraint to the incitement of Arab individuals and bodies within its borders who seek to destroy the state and at the same time discriminates against the Arabs who wish to integrate into Israeli society. It should be doing the opposite: demonstrate greater determination against its “fifth column” and strengthen the Arab citizens who desire the wellbeing of Israel.

***Approaches of Arab Academics and Civil Society Activists  
Prof. Amal Jamal: Consensual multicultural federalism***<sup>23</sup>

1. The Arabs in Israel are an indigenous national minority that emerged defeated by another national group from the struggle over the establishment of the state in which it lives. This group, the Jews, was a colonial settlement movement that deprived the Arabs of their basic collective right to self-determination.
2. As an indigenous minority, the Arabs are entitled to collective rights, self-government, and justice in order to rectify the injustices they suffered, sometimes due to the ethnic attribute of Jewish nationalism.
3. Consensual consociational solutions reflecting compromises with national groups who recognize mutual collective rights are customary in different countries throughout the world. Such solutions require the development of an institutional structure that gives expression to the uniqueness of all participants in the system in autonomous frameworks,

and the establishment of a fair partnership in decisions relating to the life of the population living within the system in question.

### **The Vision Documents<sup>24</sup>**

The Vision Documents that were drawn up by Arab academics and representatives of Arab civil society in Israel were meant to provide a framework for the future relations between the Arab sector and the state, based on the latter's recognition as a national minority and its provision with full collective rights. The common thread running through all the documents is the aspiration to do away with the Jewish character of the state and to transform it into a state belonging to two national groups with equal status and equal rights.

Two of the documents are legal in character, and the other two are visionary in character:

1. "An Equal Constitution for All?" issued by the Mossawa Center: The Advocacy Center for Arab Citizens in Israel. This document calls on Israel to adopt a constitution that would ensure full equal rights in practice to Israel's Arab minority.
2. "The Democratic Constitution," issued by Adalah: The Legal Center for Arab Minority Rights in Israel. This document was composed as a draft constitution for the State of Israel based on a bilingual multicultural democratic state.
3. "The Haifa Declaration," published by Mada al-Carmel—the Arab Center for Applied Social Research. This document calls for the establishment of a new democratic state by transforming Israel's constitutional structure; changing the state's definition from a Jewish state to a democratic state, based on national and civil equality between the two national groups; and anchoring the principles of justice and equality for all its citizens and inhabitants.
4. "The Future Vision Statement for Palestinian Arabs in Israel," produced under the auspices of the National Committee for the Heads of the Arab Local Authorities in Israel. This document addresses the legal status of Arabs in Israel and presents the collective-transformative view of the principle of equality. The basic principle for the national collective equality of Palestinian Arabs as presented in the document is full, genuine, and

equal partnership—as individuals and as a group—in all public resources of the state (political, material, and symbolic).

### Appendix 3: **The Platform of the Joint List**<sup>25</sup>

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The Joint List ran in the elections for the twentieth Knesset, on March 17, 2015, in an expression of political responsibility and public support of the partnership of four parties: Hadash, Ra‘am, Ta‘al, and Balad.

The Joint List was a slap in the face to the Israeli political right-wing, which sought to eradicate the democratic Arab voice in Israel’s parliament, and it was a response to the fascist attacks and racist policies articulated in a flood of racist and anti-democratic plans and laws that would harm human and civil rights, and first and foremost, were the Nationality Law and the Jewish State Law.

The Joint List is an expression of the unity of the Palestinian Arab community’s struggle against the regime, its various arms, and its parties, and of its partnership in this struggle with Jewish forces that fight against the occupation, racism, and discrimination. The Joint List constitutes a democratic alternative to the nationalist camp, led by Netanyahu, and the Zionist camp, led by Herzog and Livni.

The Joint List is a political answer to the fascist threat to exclude the Arab population from the political arena by raising the electoral threshold. It transforms the threat into an opportunity to unify the ranks in the joint struggle against racism and racists and against fascism and fascists and to topple the right-wing government and reject its racist colonial plans.

The Joint List marks a milestone in the history of the political and parliamentary work of the Palestinian Arab population in Israel and provides a democratic framework for all progressive forces in the country. The Joint List is a lever for joint collective action with implications for the representative institutions of the Arab population (such as the National Committee for the Heads of the Arab Local Authorities in Israel, the Higher Monitoring Committee of the Arab population, and the Arab student committees) and the political and social realms of Arab society, which are in desperate need of the values of unified struggle and patriotic partnership, alongside the values of pluralism, difference, and uniqueness.

The Joint List was established with the aim of strengthening the unity of forces against racism and the unique political influence of the Arab population and all the forces fighting the occupation and racism. Each element in the Joint List maintains its own ideological identity, but all the partners work together according to the agreed upon basic principles and platform.

### **Basic Principles**

1. The Joint List is fighting for a just peace in the region based on the relevant UN decisions; an end to the occupation of all the territories that were occupied in 1967; dismantling of all the settlements and the racist separation wall; release of the political prisoners; establishment of a sovereign and independent Palestinian state within the June 4, 1967 borders, with its capital in East Jerusalem; and a just solution for the Palestinian refugee problem that ensures the right of return in accordance with UN Resolution 194.
2. The Joint List fights for full national and civil equality for the Arab population as an indigenous minority with individual and collective rights. It calls for recognition of the Arab population of Israel as a national minority possessing the right to manage its own affairs in the spheres of culture, education, and religion, and as a part of the Palestinian Arab people and the Arab nation. The Joint List works to ensure full equality in all realms of life and fights against the discriminatory, racist regime of national repression, and for equal opportunities, fundamental equality, and corrective and distributive justice. The Joint List struggles against land expropriations and home demolitions; for recognition of all the unrecognized settlements, especially in the Negev; and to topple all manifestations of the Praver plan and to expand the outline plans for Arab communities in order to allocate land for housing, industrial areas, and places of employment. It struggles for recognition of the rights of the displaced citizens, including the right to return to their villages and their land; for the termination of the compulsory draft to which the Druze Arabs are subject; and against all plans for military enlistment and national service for Arab youth. The Joint List works to impart the values of pluralism and tolerance, and fights against the problems of violence, crime, and the anarchy of weapons.

3. The Joint List fights against all manifestations of racism and fascism and for the democratic rights of all citizens. It struggles to annul the Defense (Emergency) Regulations and all legislation that violates rights and limits freedoms, and it fights for the enactment of a democratic constitution, which anchors the values of equality, justice, and human rights, and basic social rights and democratic liberties.
4. The Joint List fights for workers' rights and social and environmental justice and for the interests of underprivileged classes, against policies that enable the rich to get richer and make the poor get poorer. The Joint List struggles against poverty and unemployment in general and in the Arab population in particular, and fights for raising the minimum wage to at least 60% of the average wage in the economy. It also works to ensure the basic rights of health care, education, welfare, and housing for all citizens.
5. The Joint List fights for equal rights for women in all realms of life and against all forms of oppression, exploitation, discrimination, and violence against women in the family, workplace, and society, including the murder of women. The Joint List struggles to ensure women's rights to education and employment and to political, social, and cultural participation.
6. The Joint List fights for the support and strengthening of culture and faiths without discrimination or exclusion. It fights to preserve the status of Arabic as an official language and to give expression to this status in all areas. The Joint List fights for the right to freely and independently develop Arab culture, to strengthen national belonging and identity, and to impart a culture of democratic dialogue.
7. The Joint List rejects imperialist involvement in the affairs of countries in the region and the world; the policy of divide and conquer; ethnic, religious, and communal factionalism; and the dismantling of countries and peoples. The Joint List supports the right of peoples to independence, liberty, justice, and democracy.
8. As part of its struggle for a world free of nuclear weapons, the Joint List fights for the nuclear disarmament of the Middle East, including Israel, and the elimination of weapons of mass destruction.

## Appendix 4: Major Government Resolutions from the Past Decade regarding the Development of Arab Communities

Government Resolution	Resolution Title	Period in Operation	Budget (in millions of NIS)
No. 2467, Oct. 22, 2000	Multi-Year Plan for the Development of Arab Communities (“The 4 Billion Plan”)	2001–2004	3,947
No. 881, Sept. 25, 2003	Development Plan for the Existing Bedouin Communities in the Negev	2003–2008	1,085
No. 1403, Jan. 27, 2004	Development Plan for the Bedouin Communities in the North	2004–2005	172
No. 3956, July 22, 2005	Development Plan for the New Bedouin Communities in the Negev (the Abu Basma communities)	2005–2008	388
No. 1539, March 21, 2010	Five-Year Plan for the Economic Development of Communities in the Minority Sector	2010–2014	800
No. 2861, Feb. 13, 2011	Multi-Year Plan for the Development and Strengthening of Druze and Circassian Communities	2011–2014	665
No. 3211, May 15, 2011	Multi-Year Plan for the Development and Strengthening of Bedouin Communities in the North	2011–2015	338
No. 3708, Sept. 11, 2011	Plan to Advance Economic Growth and Development of the Bedouin Population in the Negev	2012–2016	1,263
No. 4193, Jan. 29, 2012	Increasing the Workforce Participation Rate and Employment Rate among the Arab Population	2012–2016	730
No. 4432, March 18, 2012	Development Plan for the Minority Sector (a continuation and expansion of the Five-Year Plan of March 2010)	2012–2016	250
No. 922, Dec. 30, 2015	Government Action for the Economic Development of the Minority Population	2016–2020	15,000

## Notes

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### Introduction

- 1 Over the years, collective rights for the Arabs of Israel have been recognized in some areas, such as the Arabic language, the education system, exemption from military service, personal status, due representation, and affirmative action.
- 2 The treatment of the Arabs as a hostile element was reflected in Ben-Gurion's 1950 statement that "the Arabs must be judged based on what they are likely to do, and not on what they have done." This sentence has been quoted in a variety of sources. See, for example: Ian Lustick, *Arabs in the Jewish State* (Haifa: Mifras Publications, 1985), p. 78 [Hebrew]. According to Prof. Benjamin Neuberger, the political and military establishment in Israel and, accordingly, the majority of the Jewish population of the country perceive the status of the Arab minority in Israel as a security issue. Because of the Arab sector's family, cultural, linguistic, and national ties to Arab countries, many regard it in practical terms as a hostile element, or at least a fifth column or a possible Trojan horse. See Benny Neuberger, "The Arab Minority: Alienation and Integration," in *Governance and Politics in the State of Israel* (Raanana: Open University of Israel, 1998), p. 10 [Hebrew].
- 3 See the Report and Recommendations of the Ministerial Committee on the Or Commission chaired by Deputy Prime Minister and Justice Minister Yosef Lapid (committee members: Efraim Eitam, Benyamin Elon, Tzachi Hanegbi, Tzipi Livni, Gideon Ezra, and Avraham Poraz), June 2004, Government Resolution No. 2015, June 13, 2004.
- 4 The remarks of Prime Minister Ehud Olmert were made at the Prime Minister's Conference for the Arab Sector in July 2008. See Abraham Fund Initiatives, "Government Policy Toward Arab Citizens," *Arab Society in Israel: An Information Compendium* (2008), pp. 38–39 [Hebrew].
- 5 Remarks of President Reuven Rivlin at the Kafr Qasim Memorial Ceremony, October 26, 2014. See the full text of his speech in English at <http://mfa.gov.il/MFA/PressRoom/2014/Pages/President-Rivlin-addresses-Kafr-Qasim-memorial-ceremony-26-Oct-2014.aspx>, and in Hebrew at <https://he-il.facebook.com/ReuvenRivlin/posts/838640206170672>.
- 6 Ibid.
- 7 See Shimon Shamir, "The Advancement and Integration of the Arab Sector: Tasks and Obstacles," (lecture, The Herzliya Conference, January 23, 2008); Abraham

- Fund Initiatives, *Arab Society in Israel: An Information Compendium* (May 2009), pp. vi–xi [Hebrew].
- 8 See Prof. Ruth Gavison, “Reflections on Commissions of Inquiry and the Status of the Arab Minority in Israel,” (lecture, conference held at Tel Aviv University under the auspices of the Konrad Adenauer Program for Jewish-Arab Cooperation and the Moshe Dayan Center for Middle Eastern and African Studies, September 24, 2009) [Hebrew], <http://www.metzilah.org.il/webfiles/fck/file/lecture2009.pdf>.
  - 9 The term irredentism denotes the aspiration of a national minority group in a sovereign state to be annexed to a different country based on national, religious, or ethnic ties.
  - 10 Office of the State Comptroller, *Annual Report 63-C for 2012 and Accounts of the 2011 Financial Year*, “The Role and Performance of the Police Station,” May 8, 2013 [Hebrew], [http://www.mevaker.gov.il/he/Reports/Report\\_114/73bc456a-5df9-469f-878f-65a28b940f11/7939.pdf?AspxAutoDetectCookieSupport=1](http://www.mevaker.gov.il/he/Reports/Report_114/73bc456a-5df9-469f-878f-65a28b940f11/7939.pdf?AspxAutoDetectCookieSupport=1). See also Rada Hasisi and Naama Teshner, “The Policy of the Ministry of Public Security and the Police for Addressing Serious Violence in Arab Society,” Knesset Research and Information Center, July 29, 2014 [Hebrew], <http://www.knesset.gov.il/mmm/data/pdf/m03433.pdf>.
  - 11 Alik Maor, “The Police: A Shortage of Police and Investigators and Neglect of the Arab Sector,” Megaphone May 8, 2013 [Hebrew], <http://megafon-news.co.il/asys/archives/147197>. It should also be noted that the ability to contend with the level of crime in Arab society is influenced by the Arab community’s level of cooperation with the police and other law enforcement authorities.

## Chapter 1: The Legal Reality

- 1 “Report of the State Committee of Inquiry to Investigate the Clashes between Security Forces and Israeli Citizens in October 2000” (Jerusalem, September 2003), Ch. I, section 4 [Hebrew], <http://elyon1.court.gov.il/heb/veadot/or/inside1.htm>.
- 2 Ibid., Ch. I, Section 5.
- 3 Ibid., Ch. I, Section 6.
- 4 Ibid., Ch. I, Section 7.
- 5 Ibid., Ch. I, Section 8.
- 6 Ibid., Ch. I, Section 9.
- 7 Ibid., Ch. I, Section 10.
- 8 Yitzhak Zamir and Moshe Sobel, “Equality before the Law,” *Mishpat Umemshal* 5 (2005) 165–234 [Hebrew]. One pivotal Israeli Supreme Court ruling characterizes equality as “a fundamental principle of our constitutional regime” (see the opinion of Justice Landau in H CJ 98/69, *Bergman v. Minister of Finance et al.*, PD 23(i) 693, 698) [Hebrew]. See also H CJ 2671/98, *Israel Women’s Network in Israel v. Minister of Labor and Social Affairs*, PD 52(iii) 630, paragraph 29 for the opinion of Justice Cheshin: “First among principles in royalty, head and shoulders above

- all the other principles, is the principle of equality, also known as the principle of the prohibition of discrimination” [Hebrew].
- 9 The principle of equality is anchored in a basic law only with regard to equality in elections for the Knesset. See Section 4 of Basic Law: The Knesset, which stipulates that “the Knesset shall be elected by general, national, direct, equal, secret and proportional elections, in accordance with the Knesset Elections Law; this section shall not be varied save by a majority of the members of the Knesset.”
  - 10 See, for example, the words of Chief Justice Barak in 1113/99, *Adalah: The Legal Center for Arab Minority Rights in Israel v. Minister of Religious Affairs and Minister of Finance*, PD 54(ii) 164 [Hebrew]: “My fundamental position is that equality constitutes a right possessing constitutional status . . . It is contained within the right to dignity. Indeed, the principle of equality is derived from human dignity and is bound to it by an unseverable bond . . . Therefore, I am prepared—if called upon—to examine whether a regular law violates the principle of equality unlawfully (meaning, without fulfilling the provisions of the limitation clause).”
  - 11 For an expanded discussion on this point, see Zamir and Sobel, “Equality before the Law.”
  - 12 The principle of equality also has some applicability, albeit limited, in the realm of private law.
  - 13 See Or Commission Report, Chapter 1, Section 22, [http://elyon1.court.gov.il/heb/veadot/or/inside\\_index.htm](http://elyon1.court.gov.il/heb/veadot/or/inside_index.htm).
  - 14 Section 38 of Justice Cheshin’s ruling in H CJ 2671/98, *Israel Women’s Network in Israel v. Minister of Labor and Social Affairs*, PD 52(iii) 630 [Hebrew]. Also relevant is the following excerpt from Justice Barak’s ruling in HCG 953/87, 1/88, *Poraz v. Mayor of Tel Aviv-Jaffa*, PD 42(ii) 309, 332 [Hebrew]: “There is nothing more destructive to society than the feeling of our sons and daughters that they are being treated using double standards. The feeling of inequality is one of the most difficult feelings of all. It does injury to the strengths that unify us as a society. It does injury to the self-identity of the individual.”
  - 15 H CJ 6698/95, *Ka’adan v. Israel Land Administration*, PD 54(1) 258 [Hebrew].
  - 16 See *Ibid*, Section 34 of Justice Barak’s ruling: “The states duty to respect equality in allocating rights in land is violated by the transfer of land to a third party that itself discriminates in the allocation of land on the basis of nationality or religion. The State cannot escape its legal obligation to respect the principle of equality by using a third party that adopts a discriminatory policy. What the State is not permitted to do directly, it is not permitted to do indirectly.”
  - 17 Compare this ruling with H CJ 528/88, *Avitan v. Israel Lands Administration*, PD 43(iv) 297. In this ruling, which concerned the allocation of land to the settlement Segev-Shalom for Arabs only as part of a policy of affirmative action, the court found separate but equal treatment to be legal.

- 18 HCJ 6698/95, *Ka'adan v. Israel Lands Administration*, Paragraph 31 of Chief Justice Barak's ruling.
- 19 Muhammad Dahle, "The Demand for Collective Rights for the Arab Minority in Israel," in *The Arabs of Israel: The Status of the Arab Minority in the Jewish State* ed. Elie Rekhess and Sarah Ozacky-Lazar (Tel Aviv: Dayan Center, 2005), p. 84 [Hebrew], <http://www.dayan.org/kap/images/stories/national%20minority%202004.pdf>.
- 20 See Amal Jamal, "On the Morality of Arab Collective Rights in Israel," *Adalah's Newsletter* 12 (April 2005), <http://www.adalah.org/uploads/oldfiles/newsletter/eng/apr05/ar2.pdf>; Amal Jamal, "Collective Rights for Original Minorities—Theoretical and Normative Aspects," in *The Arabs of Israel: The Status of the Arab Minority in the Jewish State*, ed. Elie Rekhess and Sarah Ozacky-Lazar (Tel Aviv: Dayan Center, 2005), p. 27, <http://www.dayan.org/kap/images/stories/national%20minority%202004.pdf>; Amal Jamal, "On Patterns of the Establishment of National Inequality in Israel," in *Society and Economy in Israel: A Historical and Contemporary View*, ed. Avi Bareli, Daniel Gotwein, and Tuvia Freiling (Beersheva: Ben Gurion University and Jerusalem: Yad Ben Zvi, 2005) [Hebrew], <http://in.bgu.ac.il/bgi/iyunim/2005/7.PDF>; Hassan Jabareen, "The Future of Arab Citizenship in Israel: Jewish-Zionist Time in a Place with No Palestinian Memory," *Mishpat Umemshal* 6 (July 2001): 53 [Hebrew].
- 21 Section 15(b) reads as follows: "Any provision in the law requiring the use of the English language is repealed."
- 22 Section 24 of the Interpretation Law, 1981, titled "Binding Text," stipulates that "the binding text of any law is the text in the language in which it was enacted. However, in the case of a law enacted in English before the establishment of the State of which a new version has been introduced under section 16 of the Law and Administration Ordinance, 5708–1948, the new version shall be the binding text."
- 23 HCJ 4112/99, *Adalah et al. v. The Municipality of Tel Aviv-Jaffa et al.*, PD 56(v) (paragraph 25 of Chief Justice Barak's ruling) (hereinafter the HCJ Arab Signs Ruling).
- 24 On this issue, also see Chapter 1 of the Or Commission Report, Sections 63–64.
- 25 HCJ Arab Signs Ruling. See paragraphs 48–49, 52, and 54 of the minority opinion of Justice Cheshin.
- 26 For more details on this issue, see the section on inequality in the allocation of budgets and resources.
- 27 The Or Commission Report, Section 62. See also Yousef Jabareen, "On the Right to Influence Education in the Context of the Palestinian-Arab Minority in Israel," in *Teacher Training in Palestinian Society in Israel: Institutional Practices and Educational Policy* ed. Ayman Agbaria (Tel Aviv: Resling, 2013), pp. 49–75 [Hebrew].

- 28 The main factors underlying this arrangement are as follows: a) The security factor, which regards the Arab minority as a state security risk, particularly in light of the continuation of the Israeli-Palestinian conflict; b) The humanitarian factor, meaning consideration of the feelings of the Arab citizens of Israel and a desire to avoid putting them in the position of being forced to fight against members of their own people or against other countries that constitute part of the Arab Nation; c) The ideological factor, advanced by the Arab sector, that they should not be required to serve in a state that defines itself as Jewish, as they do not regard it as their state. For a broader discussion regarding the historical and legal aspects of the non-enforcement of the Security Service Law among the Arab minority in Israel, see Liad Orgav, “The Arab Minority in Israel and the Security Service Obligation,” *Hamishpat* 11 (2007): 381 [Hebrew].
- 29 For a broader discussion of the legality of using the criterion of military service to determine the provision of economic and other benefits, see Chapter 2.
- 30 HCJ 528/88, *Avitan v. Israel Lands Administration*, PD 43(iv) 297. In Section 3 of his opinion, Justice Or found that “The principle of equality is intended to serve the goal of achieving a just outcome. It is not ‘technical’ or ‘formal’ equality that is worthy of protecting, but rather fundamental equality, meaning, equality among equals. People, or groups of people, often differ from one another in their conditions, characteristics, and needs, and it is sometimes necessary to discriminate between those who are not equal in order to protect the weak or the needy and to encourage their advancement. Equality between non-equals is sometimes no more than a mockery. Therefore, the question raised by the claim of discrimination is not only whether one individual was discriminated against for the benefit of another; rather, it is also necessary to determine whether the discrimination is unjust.”
- 31 *Ibid*, Paragraph 6.
- 32 See, for example, Elyakim Rubinstein, “On Equality for the Arabs in Israel,” *Kiryat Hamishpat* 1 (2001) [Hebrew].
- 33 On the obligation of due representation for the Arab minority on the board of directors of state owned companies and the rate of fulfilment of this obligation, see HCJ 10026/01, *Adalah: The Legal Center for Arab Minority Rights in Israel v. the Prime Minister of Israel*, PD 57(iii), p. 31 [Hebrew].
- 34 Amnon Rubinstein, “An Arab Minority in a Jewish State: Challenges and Constraints,” in *The Arabs of Israel: The Status of the Arab Minority in the Jewish State*, ed. Elie Rekhess and Sarah Ozacky-Lazar (Tel Aviv: Dayan Center, 2005), pp. 15–17 [Hebrew], <http://www.dayan.org/kap/images/stories/national%20minority%202004.pdf>.
- 35 Directive 1.1503 of the Attorney General, “Due Representation for Certain Sectors,” [Hebrew], <http://index.justice.gov.il/Units/YoezMespasi/HanchayotNew/Seven/1.1503.pdf>. See also Directive 1.1502 and 6.5000 of the Attorney General.
- 36 Rubinstein, “An Arab Minority in a Jewish State,” p. 15.

- 37 Report of the Implementation Headquarters of the Human Capital Management Reform in the Civil Service, “A Human Capital Assessment in the Civil Service for the 2015 Work Year” (November 2014) [Hebrew], <http://www.csc.gov.il/DataBases/ArticlesAndPublications/Documents/Assessment2015.pdf>.
- 38 Ibid., pp. 30–32. Also see the Civil Service Commission’s report “Due Representation for Members of the Arab population, including Druze and Circassians, in the Civil Service (Report for 2012)” [Hebrew], <http://www.csc.gov.il/DataBases/Reports/Documents/representation2012.pdf>.
- 39 “The A-Team of Directors of Government Companies for 2015 is Underway,” Ministry of Finance, Press Release (January 4, 2015) [Hebrew], <http://mof.gov.il/Releases/Pages/directors2015.aspx>; Gil Kalian, “Profile of the New Directors: More Women and Arabs, Less Young Jews,” *Calcalist*, March 12, 2014 [Hebrew], <http://www.calcalist.co.il/articles/0,7340,L-3626406,00.html>; Ziyad Abou Habla, “We Need More Arab Directors in Government Companies,” *The Marker*, February 3, 2014 [Hebrew], <http://www.themarker.com/opinion/1.2233161>.
- 40 Directive 1.1503 of the Attorney General.
- 41 Ibid.
- 42 HCJ 6924/98, *Association for Civil Rights in Israel v. Government of Israel et al.*, PD 55 (v), 15 [Hebrew].
- 43 HCJ 6924/98, *Association for Civil Rights in Israel v. Government of Israel et al.*, Section 28.
- 44 HCJ 2671/98, *Women’s Network in Israel v. Minister of Labor and Social Affairs*, PD 52(iii) 630. In Section 37 of his ruling, Justice Cheshin wrote “We regard the laws we presented and the doctrines we surveyed as points of light, the light of equality—women’s equality to men in all matters. We will proceed from one point of light to another, and the doctrine of equality will reveal itself to us in all its glory.”
- 45 *Association for Civil Rights in Israel et al. v. the Government of Israel et al.* (November 14, 2010).
- 46 “HCJ: The Lack of Representation of Arabs and Women in the Israel Lands Council is not Acceptable,” Association for Civil Rights in Israel [Hebrew], <http://www.acri.org.il/he/30540>.
- 47 HCJ 8318/10 (Ruling of February 26, 2014) [Hebrew].
- 48 HCJ 8318/10 (Ruling of January 13, 2015) [Hebrew].
- 49 For more details regarding the report of the Planning and Budgeting Committee’s team of professionals, see the Council for Higher Education, “Pluralism and Equal Opportunity in Higher Education: Increasing the Accessibility of Academia for Arabs, Druze, and Circassians in Israel,” March 2013 [Hebrew], [goo.gl/55zF4w](http://goo.gl/55zF4w).
- 50 Dr. Nohad Ali, “Representation of Arab Citizens in Institutions of Higher Education,” (Sikkuy – The Association for the Advancement of Civic Equality, October 2013)

- [Hebrew], [http://www.sikkuy.org.il/wp-content/uploads/2013/10/nohad\\_ali\\_hebrew1.pdf](http://www.sikkuy.org.il/wp-content/uploads/2013/10/nohad_ali_hebrew1.pdf).
- 51 The definition of the state and its Jewish character will be discussed below.
- 52 For more on this subject, see Sikkuy, “Due Representation for Arab Citizens in the Justice System in Israel, 2008,” [Hebrew], <http://primage.tau.ac.il/libraries/brender/booksf/2286411.pdf>.
- 53 See, for example, Michael Karayanni, “Jewish and Democratic Ricochets,” *Mishpat Umemshal* 9 (2006): 461–496 [Hebrew]; Avishay Margalit and Moshe Halbertal, “Liberalism and the Right to Culture,” in *Multiculturalism in a Jewish and Democratic State* ed. Menachem Mautner, Avi Sagi, and Ronen Shamir (Tel Aviv: Ramot Press, 1998), pp. 93–105 [Hebrew].
- 54 There is no consensus regarding the question of whether the right to equal allocation of resources is an individual right or a collective right. See the discussion on this issue below.
- 55 The Or Commission Report, Chapter 1, Section 19.
- 56 HCJ 240/98, *Adalah: The Legal Center for Arab Minority Rights in Israel v. Minister for Religious Affairs*, PD 52(v) 167 [Hebrew].
- 57 *Ibid.*, Section 18.
- 58 In his denial of the petition, Justice Cheshin wrote: “had the petitioners focused their claims on one or two issues—had they honed in and gone into depth—they may have succeeded in presenting an array of facts constituting a basis for the existence of an interest entitled to the court’s protection. That is not to say that, in this case, the petitioners would have necessarily acquired the right for the court’s intervention in the Budget Law. My intention here is to say only that in this way, it would have been possible to address the petitioners’ arguments in their own right, and the respondents—the minister of finance and the minister of religious affairs—may have taken significant steps toward their position. However, the petitioners chose instead to present the full spectrum of their arguments and grievances . . . and on the basis of their arguments, they asked us to order the annulment of a law enacted by the Knesset. This is not the way to proceed, and it is not how the court practices law.” *Ibid.*, Section 3.
- 59 HCJ 1113/99, *Adalah: The Legal Center for Arab Minority Rights in Israel v. Minister of Religious Affairs and Minister of Finance*, PD 54(ii) 164 [Hebrew].
- 60 *Ibid.*, Section 3.
- 61 HCJ 2814/97, *Higher Monitoring Committee for Arab Education in Israel v. Ministry of Education*, PD 53(iii) 233 [Hebrew].
- 62 *Ibid.*, Section 6.
- 63 *Ibid.*, Section 7.
- 64 HCJ 6671/03, *Abu Ghanem v. Ministry of Education*, PD 59(v) 577 [Hebrew].
- 65 *Ibid.*, Section 13.
- 66 *Ibid.*

- 67 Ibid., Section 14.
- 68 Ibid., Section 19.
- 69 HCJ 11163/03, *Higher Monitoring Committee for Arab Affairs in Israel et al. v. Prime Minister of Israel*, Takdin – Supreme Court Rulings 2008 (4) 2003 [Hebrew].
- 70 In Section 19 of his opinion, Chief Justice Barak wrote as follows: “The way in which the government demarcated the national priority areas in education achieved a discriminatory result, whether it was an intentional result or not. The geographic demarcation along the lines that were chosen led to a result in which the 500 towns that were granted the status of a national priority area for the purpose of benefits in education included only four small Arab towns. This numerical proportion in no way corresponds to the size of the Arab sector in the population as a whole and its geographic distribution in Israel. Admittedly, Arab towns are apparently not concentrated in the most outlying areas of the Galilee and the Negev. It follows that, prima facie, the geographic criterion excludes these towns not because they belong to the Arab sector but because of their physical location. But the practical result of using the geographic criterion, with the boundaries that were chosen, is that the map of the national priority areas in education is de facto a map of Jewish towns only. The great disparity between the number of Jewish towns with the status of a national priority area in the field of education and the number of Arab towns with a similar status indicates a discriminatory result . . . This result cannot be permitted. It is a discriminatory result that cannot stand. This is a result that Israeli democracy cannot tolerate. The effect of the government’s resolution is that it discriminates against the members of the Arab sector in the field of education . . .”
- 71 On the criticism of the ruling and the turn of events in the Supreme Court regarding the implementation of the ruling in the years that followed, see Yousef Jabareen, “Critical Reflections on the Legal Struggle of the Arab Local Councils: The Case of the Regions of National Priority,” in *Inside the Local Government in Palestinian Society in Israel: Political, Administrative, and Legal Aspects* ed. Yousef Jabareen and Mohanad Mustafa (Pardes Publishing, 2003) [Hebrew].
- 72 HCJ 11163/03 (ruling of June 17, 2007) [Hebrew].
- 73 HCJ 11163/03 (ruling of November 23, 2008) [Hebrew].
- 74 HCJ 727/00, *The Committee of Heads of Arab Local Councils in Israel v. Minister of Construction and Housing*, PD 56(ii) 79 [Hebrew].
- 75 Ibid., Section 10.
- 76 HCJ 6488/02, *National Committee of Arab Mayors in Israel v. The Director’s Committee for Fighting Unemployment in Settlements with High Unemployment Rates*, Takdin – Supreme Court Rulings 2004 (2) 2581 (June 2, 2004) [Hebrew].
- 77 Ibid., Section 3.
- 78 Ibid., Section 4.
- 79 Yousef Jabareen, “Two Types of Equality: Toward a Critical Transformative Theory of Israeli Law,” *The Public Sphere* 7 (2012): 45 [Hebrew]. See also Yousef Jabareen,

- “Critical Reflections on the Legal Struggle of the Arab Local Councils: The Case of the Regions of National Priority,” in *Plurality and Citizenship in Israel* ed. Dan Avnov and Yotam Benziman (London: Routledge, 2009), which raises “doubts regarding the extent to which the Israeli Supreme Court actually fulfills its role as a defender of basic principles and values, such as equality and justice, and casts a long shadow over the aspiration for social change through legal adjudication.”
- 80 See Paragraph 57 of Justice Cheshin’s ruling in the High Court of Justice’s Arab Signs Case.
- 81 Yitzhak Zamir, “Equality of Rights for Arabs in Israel,” *Mishpat Umemshal* 9, no. 1 (2005): 28 [Hebrew]; Yitzhak Zamir, “Equality of Rights for Arabs in Israel,” in *The Arabs of Israel: The Status of the Arab Minority in the Jewish State* ed. Elie Rekhess and Sarah Ozacky-Lazar (Tel Aviv: Dayan Center, 2005), p. 59 [Hebrew].
- 82 *Ibid.*, p. 27.
- 83 *Ibid.*, p. 28.
- 84 For an extensive discussion of these issues, see Section II, Chapter 7, on the different legislative proposals.
- 85 H CJ 11280/02, *Central Elections Committee for the Sixteenth Knesset v. MK Ahmad Tibi et al.*, PD 57(iv)1, Paragraph 12 of Chief Justice Barak’s opinion [Hebrew].
- 86 *Ibid.*, Paragraph 13 of Chief Justice Barak’s opinion.
- 87 The Or Commission Report, Chapter 6, Section 42.
- 88 See, for example, Dahle, “The Demand for Collective Rights for the Arab Minority in Israel,” p. 85: “The State of Israel defines itself as the state of the Jewish People and as a Jewish state, which says to the Arabs of Israel: you will always be foreigners in your homeland. It arouses in them feelings of alienation, deprivation, discrimination, and a lack of belonging in their homeland. The Jewish collective regards itself as a nation and says: This state is mine. It is the state in which I fulfill my national rights. The Arabs in Israel say: We cannot remain private individuals living in this Jewish space that is known as the ‘Jewish state’ and no more. We also need to organize ourselves as a group, and in order to actualize our individual rights, we must also demand our collective rights.” See also pp. 12–13 of the “The Future Vision of the Palestinian Arabs in Israel,” produced in 2006 by the National Committee for the Heads of the Arab Local Authorities in Israel, which reads as follows: “The Israeli legal system . . . is openly biased in favor of the Jewish majority. This official bias is not restricted to symbols such as the Israeli flag, but also to deeper legal issues concerning all realms of life of Palestinian Arabs, especially citizenship, immigration, participation in political decision making, land ownership, language, religious places, and other. This official dependency leads to an open official classification of Israeli citizenship: the aforementioned canonized citizenship, second and third citizenship. The first citizenship is held by the citizen who enjoys precedence. It goes without saying that this ethnic superiority fundamentally contradicts the principles held by those deprived of this democracy.”

- 89 See, for example, Yousef Jabareen, “On the Constitutional Status of the Arab Minority in Israel: Proposing a New Order,” *Medina Vehevra* 7, no. 1 (2010): 105–140 [Hebrew].
- 90 For an in-depth discussion, see Ruth Gavison, “Reflections on the Meaning and Justification of ‘Jewish’ in the Expression ‘A Jewish and Democratic State’,” in *The Israeli Nation State: Political, Constitutional, and Cultural Challenges* ed. Fania Oz-Salzburger and Yedidia Stern (Boston: Academic Studies Press, 2014), pp. 135–163, [https://ruthgavison.files.wordpress.com/2015/10/gavison\\_chapter-7-meaning-of-jewish-in-jewish-state.pdf](https://ruthgavison.files.wordpress.com/2015/10/gavison_chapter-7-meaning-of-jewish-in-jewish-state.pdf).
- 91 Ruth Gavison, “Constitutional Grounding of the Vision of the State: Recommendations for the Minister of Justice” (November 2014). Also see the comprehensive discussion of the Nationality Law in Part II, Chapter 7.
- 92 For a more in-depth discussion of the vision statements and the demands of the Arab minority, see Abraham Fund Initiatives, *Arab Society in Israel: An Information Compendium (2013)*, Ch. 7: “The Status of the Arab Minority in Israel,” pp. 20–35, 38–55 [Hebrew], <http://www.abrahamfund.org/5544>.
- 93 Adalah: The Legal Center for Arab Minority Rights in Israel, “The Democratic Constitution (2007),” [https://www.adalah.org/uploads/oldfiles/Public/files/democratic\\_constitution-english.pdf](https://www.adalah.org/uploads/oldfiles/Public/files/democratic_constitution-english.pdf).
- 94 “The Haifa Declaration,” p. 16, <http://mada-research.org/en/files/2007/09/haifaenglish.pdf>.
- 95 Ibid.
- 96 The National Committee for the Heads of the Arab Local Authorities in Israel, “The Future Vision of the Palestinian Arabs in Israel,” (2006) [Hebrew], <http://goo.gl/Vj0nzS>.
- 97 The Or Commission Report, Chapter 6, Section 42.
- 98 Ibid.
- 99 Yitzhak Zamir, “Equality of Rights for Arabs in Israel,” *Mishpat Umemshal* 9, no. 1 (2005): 30 [Hebrew].

## Chapter 2: The Economic Reality

- 1 This chapter was written by Hofni Gartner and Prof. Eran Yashiv.
- 2 These figures are based on the website of the Authority for the Economic Development in the Arab, Druze, and Circassian Sector; on this body’s annual report for 2013; and on a presentation titled “A Plan for the Economic Development of Localities in the Minorities Sector”; Eran Yashiv and Nitza Kasir’s 2013 survey titled “The Labor Market of the Arabs of Israel”; the Israeli State Comptroller’s report pertaining to the 2012 report of the Economic Development in the Arab, Druze, and Circassian Sector; the Central Bureau of Statistics, “A Collection of Data from the Social Survey,” 2011; and the Central Bureau of Statistics, “Initial Findings of the Social Survey,” 2013.

- 3 Muslim Arabs account for approximately 83% of this population, and Druze and Circassians account for 9% and 8% respectively.
- 4 See the remarks of Ayman Saif, director general of the Prime Minister's Office's Authority for the Economic Development of the Arab, Druze, and Circassian Sector, in the Authority's 2013 annual report.
- 5 Karin Tamar Schafferman, "Crossing the Lines: Poverty and Inequality in Israel," *Parliament* (Israel Democracy Institute), 63 [Hebrew].
- 6 Uzi Almog, "The Economic Status of the Arabs of Israel," *People Israel: The Guide to Israeli Society*, the Samuel Neaman Institute, February 13, 2009 [Hebrew], <http://www.peopleil.org/details.aspx?itemID=7820>.
- 7 Central Bureau of Statistics, "The Face of Israeli Society," Report No. 7 (October 2014) [Hebrew], [http://cbs.gov.il/publications14/rep\\_07/pdf/part02\\_h.pdf](http://cbs.gov.il/publications14/rep_07/pdf/part02_h.pdf); Report of the Committee for the War on Poverty in Israel, June 2014.
- 8 Authority for the Economic Development of the Arab, Druze, and Circassian Sector, "A Plan for the Economic Development of Communities in the Minority Sector" Presentation [Hebrew].
- 9 This section was written by Prof. Eran Yashiv.
- 10 The Or Commission Report, p. 767.
- 11 Eran Yashiv and Nitza Kasir, "Participation Patterns of Israeli Arabs in the Labor Market," *Bank of Israel Survey* 84, pp. 39–86 [Hebrew]; Eran Yashiv and Nitza Kasir, "Arab Women in the Labor Market in Israel: Attributes and Policy Measures," *Economic Quarterly* 1–2 (March–June 2011): 120–160 [Hebrew]; Eran Yashiv and Nitza Kasir, *The Labor Market of the Arabs of Israel* (Tel Aviv University, 2013) [Hebrew].
- 12 Muhammad Asali, "Why do Arabs Earn Less than Jews in Israel?" Falk Institute for Economic Research, Discussion Paper No. 06.03 (2006).
- 13 Yinon Cohen, and Yitchak Haberfeld, "Development of Gender, Ethnic, and National Earnings Gaps in Israel: the Role of Rising Inequality," *Social Science Research* 36, no. 2 (2007): 654–672.
- 14 Nachum Blass and Chaim Adler, *Inequality in the Education System: Israel 2009—The Way It Is* (Jerusalem: Taub Center, 2009) [Hebrew].
- 15 This section was written by Hofni Gartner.
- 16 The Or Commission Report, p. 767.
- 17 The state already began investing in the development, establishment, and marketing of industrial areas in National Priority Areas in 1973 within the Ministry of Industry and Trade (the name of the Ministry of Economy at the time), after being relocated there from the Ministry of Housing.
- 18 Information from the Or Commission Report, p. 767.
- 19 Amendment No. 68.
- 20 A list of industrial areas located in development areas can be found on the Ministry of Economy website: <http://www.moital.gov.il/cmstamat/ishuvim.aspx?sValue=%E0>.

- 21 For detailed information on this issue, see the Adalah website at <http://www.adalah.org/he/content/view/3165> [Hebrew].
- 22 This information is based on the website of the Prime Minister's Office, <http://www.pmo.gov.il/Secretary/GovDecisions/2013/Pages/des284.aspx> [Hebrew].
- 23 Avital Lahav, "There's a Budget for Jews and a Budget for Arabs," *Ynet*, June 7, 2014 [Hebrew], <http://www.ynet.co.il/articles/0,7340,L-4527111,00.html>.
- 24 This information was gleaned from Michal Belikoff and Safa Aghbariya, "From Deficits and Dependence to Balance and Growth: the Sources of Income of Arab Municipalities," (Jerusalem, Haifa, and Nazareth: Sikkuy and Injaz, April 2014) [Hebrew], [http://www.sikkuy.org.il/wp-content/uploads/2014/06/rashuyot\\_ivrit.pdf](http://www.sikkuy.org.il/wp-content/uploads/2014/06/rashuyot_ivrit.pdf).
- 25 Adi Brender, "Self-Starting or Alienation in Response to Under-Privilege: A Case Study of the Mobilization of Local Resources for the Improvement of Local Services in the Arab Sector in Israel," (Jerusalem: Maurice Falk Institute for Economic Research in Israel, Jerusalem, 2004).
- 26 Adi Brender, "Changes in the Conduct of Municipal Government in Israel in Recent Decades: Has a Foundation Emerged for the Expansion of Decentralization?" presentation, Research Division, Bank of Israel [Hebrew].
- 27 Belikoff and Aghbariya, "From Deficits and Dependence to Balance and Growth."
- 28 Shuki Sadeh, "The Dust and the Dirt Goes to Sakhnin, the Money Goes to Misgav," *The Marker*, April 19, 2014 [Hebrew], <http://www.themarker.com/markerweek/1.2299491>.
- 29 Parts of this paragraph are based on the Research and Economic Administration of the Ministry of Industry, Trade, and Labor, "Joint Industrial Areas for Jews and Minorities and Their Contribution to Employment among Minorities," January 2011 [Hebrew], <http://www.moital.gov.il/NR/rdonlyres/5490E192-C47D-4C93-AAF4-B2EF550EC639/0/ezoreitassija0711.pdf>.
- 30 The funding was ultimately provided by the Interior Ministry.
- 31 This section was written by Hofni Gartner.
- 32 The Or Commission Report, pp. 766–767.
- 33 This information was taken from the website of the Authority for Economic Development, the 2013 report of the Authority for the Economic Development of the Arab, Druze, and Circassian Sector, titled: "Plan for the Economic Development of the Communities in the Minorities Sector" [Hebrew].
- 34 This information was taken from the 2013 report of the Authority for the Economic Development of the Arab, Druze, and Circassian Sector.
- 35 Ibid.
- 36 Ibid.
- 37 This information was taken from the website of the Prime Minister's Office.
- 38 This information was taken from the annual report of the Authority for Economic Advancement.

- 39 This information was taken from State Comptroller's Report pertaining to the Authority for Economic Development's report for 2012, and from the website of the Israel Export Institute.
- 40 This information was taken from the annual report of the Authority for Economic Development.
- 41 Ibid.
- 42 The information provided here was taken from the State Comptroller's report on the Authority for Economic Development for 2012.
- 43 For example, the Policy Planning Division, which coordinated the staff work for normalizing the status of the Bedouin settlements in the Negev, and the Division for Coordination, Follow-up and Control, which is responsible for supervising the implementation of the government resolutions regarding local government in the minority sector and the plans for the development and empowerment of the Druze, Circassian, and Bedouin sectors in northern Israel.
- 44 For more details and the budgetary proposal, see Yashiv and Kasir, "The Labor Market of the Arabs of Israel."
- 45 This information was acquired during a conversation with an official of the Authority for Economic Development.
- 46 These findings were published in *The Marker* in November–December 2014, in three articles authored by Lior Detel. For more details regarding these findings, see Chapter 3 and endnote 167.

### Chapter 3: The Reality of the Arab Education System

- 1 Or Commission Report, p. 767.
- 2 See Michal Belikoff, "Gaps between Jews and Arabs in the Education System: The Physical Infrastructure," (Sikkuy—The Association for the Advancement of Civic Equality, November 2014) [Hebrew].
- 3 Government Resolution No. 1410 of March 18, 2007 [Hebrew].
- 4 Yuval Vergen, "The Construction of Different Classrooms for Different Sectors of the Education System," (Jerusalem: Knesset Center for Research and Information, November 21, 2011) [Hebrew].
- 5 Yarden Skop, "Arab Education is Still Suffering from a Significant Shortage of Classrooms and Computers," *Haaretz*, October 31, 2014 [Hebrew], [www.haaretz.co.il/news/education/.premium-1.2420273](http://www.haaretz.co.il/news/education/.premium-1.2420273).
- 6 Netta Ahituv, "The Education System in the Arab Sector is Lacking Classrooms and Computers," *Haaretz*, February 4, 2015 [Hebrew], <http://www.haaretz.co.il/magazine/tozeret/.premium-1.2557630>.
- 7 See Lior Detel, "Where does the High School Student Receive the Most Funds?" *The Marker*, November 26, 2014 [Hebrew]; Lior Detel, "The Ministry of Education Confirms: Religious Students Receive More Funds than Secular Jews or Arabs," *The*

- Marker*, December 4, 2014 [Hebrew]; Lior Detel, “The Data Revealed: How Much Money Do Your Children Receive?” *The Marker*, December 15, 2014 [Hebrew].
- 8 HCJ 11163/03, *Supreme Monitoring Committee for Arab Affairs in Israel et al. v. Prime Minister of Israel*, Takdin – Supreme Court Rulings 2008 (4) 2003 [Hebrew].
  - 9 See Chapter 1 and endnote 46. Also see Yousef Jabareen and Ayman Agbaria, *Education on Hold: Government Policy and Civil Society Initiatives to Advance Arab Education in Israel* (Dirasat: Arab Center for Law and Policy, Clinic for the Rights of the Palestinian-Arab Minority, Faculty of Law, University of Haifa, 2010), pp. 22–23 [Hebrew], [http://www.dirasat-aclp.org/arabic/files/education-on-hold\\_dirasat\\_2010.pdf](http://www.dirasat-aclp.org/arabic/files/education-on-hold_dirasat_2010.pdf).
  - 10 Ministry of Education, “Matriculation Certificate Entitlement, 2012” [Hebrew], <http://cms.education.gov.il/EducationCMS/Units/Dovrut/pedagogia/bchinot/zakautlebagrut2012.htm>.
  - 11 Jabareen and Agbaria, *Education on Hold*.
  - 12 Hava Klein-Avishai, “Higher Education in Israel on the Path to Growth” (Jerusalem: The Planning and Budgeting Committee of the Council for Higher Education, May 2012) [Hebrew].
  - 13 Ministry of Industry, Trade, and Labor, the Administration for Research and Economy, “Twenty Facts about Minority College and University Graduates in Israel,” November 2011 [Hebrew].
  - 14 The Or Commission Report, p. 779.
  - 15 The Or Commission Report, pp. 17–18.
  - 16 The Or Commission Report, p. 780.
  - 17 The Or Commission Report, p. 54.
  - 18 Director-General Memorandum 65/7, March 1, 2005, Ministry of Education [Hebrew], [http://cms.education.gov.il/educationcms/applications/mankal/arc/se7h9\\_2\\_2.htm](http://cms.education.gov.il/educationcms/applications/mankal/arc/se7h9_2_2.htm).
  - 19 The committee was chaired by Muhammad Issawi, director of the al-Qasemi Academy in Baqa al-Gharbiya, and Prof. Gavriel Salomon, a recipient of the Israel Prize for Education and founder and director of the Center for Peace Studies at the University of Haifa. See Gavriel Salomon and Muhammad Issawi, “Report of the Public Committee for the Formulation of State Policy regarding Education for Shared Living between Jews and Arabs in Israel,” submitted to Minister of Education Prof. Yuli Tamir, January 2009. On the report, see also, Jabareen and Agbaria, *Education on Hold*.
  - 20 Jabareen and Agbaria, *Education on Hold*.
  - 21 “The Other Is Me” – Marking International Tolerance Week, Ministry of Education [Hebrew], <http://goo.gl/Q9ftvd>.
  - 22 Lesson plans for International Tolerance Day, Ministry of Education [Hebrew], <http://cms.education.gov.il/EducationCMS/Units/ui/yamim/savlanut.htm>.

- 23 Ministry of Education, “The Other Is Me,” December 7, 2014 [Hebrew], <http://cms.education.gov.il/EducationCMS/Units/ui/gizanut/razyonal.htm>.
- 24 Mordechai Kremnitzer and Amir Fuchs, “Education toward Democratic Values and Struggling against Racism by Means of Education,” in *Education Policy for Democracy*, Israel Democracy Institute and the Open University (for the Dov Lautman Conference on Education Policy, June 2, 2015), pp. 41–43 [Hebrew].
- 25 Ibid.
- 26 Ibid.
- 27 Jabareen and Agbaria, *Education on Hold*.
- 28 Yousef Jabareen and Ayman Agbaria, “Autonomy for Arab Education in Israel: Rights and Possibilities,” *Gilui Da’at* 5 (Spring 2014):13–40 [Hebrew], <http://www.smkb.ac.il/Data/Uploads/gabrin.pdf>.

## Chapter 4: The Development of Arab Communities and Municipalities

- 1 The Or Commission Report, p. 41.
- 2 Ibid., p. 23.
- 3 “Outline Planning in Arab Communities in Israel: A Situation Report,” (Bimkom organization, 2012), pp. 9–10 [Hebrew].
- 4 The Or Commission Report, p. 23.
- 5 The Or Commission Report, Chapter 1, Section 37.
- 6 Planning Administration, Ministry of the Interior, “The Outline Planning Project for the Non-Jewish Sector,” June 2006, p. 3 [Hebrew].
- 7 “Outline Planning in Arab Communities in Israel” p. 11.
- 8 Ibid., p. 74.
- 9 Ibid., pp. 23–24.
- 10 Rassem Khamaisi, “Obstacles to the Planning of Arab Communities in Israel,” (Floersheimer Institute for Policy Studies, November 2004), pp. 16–17 [Hebrew].
- 11 Raja Khoury, “Land and Planning Policy in Israel—Is There No Place for Arabs?,” *Parliament* (Israel Democracy Institute ) 76 (2013) [Hebrew].
- 12 *Local Planning in the Arab Sector* (Knesset Center for Research and Information, February 2010), pp. 11–12 [Hebrew]. For more extensive discussion on this subject, see Rassem Khamaisi, “Between Leaders and Laws: Land Planning and Management in Arab Communities in Israel,” (Floersheimer Institute for Policy Studies, May 2007) [Hebrew].
- 13 “Proposal of the Authority for the Economic Development of the Minority Sector in the Prime Minister’s Office for Resolving the Problem of Planning and Housing in the Arab Sector,” Submitted to the Housing Subcommittee of the Committee for Economic and Social Change chaired by Prof. Manuel Trajtenberg, September 2013, p. 1 [Hebrew].
- 14 “Outline Planning in Arab Communities in Israel,” p. 23.

- 15 “Proposal of the Authority for Economic Development,” pp. 7–8.
- 16 State Comptroller, “Special Inspection Report—The Housing Crisis,” 2015, p. 209.
- 17 *Ibid.*, p. 210.
- 18 The Or Commission Report, p. 767.
- 19 Elie Rekhess, *The Arabs of Israel and Land Expropriation in the Galilee* (Tel Aviv: Tel Aviv University, 1977) [Hebrew].
- 20 Raja Khoury, “Land and Planning Policy in Israel – Is There No Place for Arabs?” *Parliament* (Israel Democracy Institute) 76 (2013) [Hebrew].
- 21 Yitzhak Reiter and Orna Cohen, “The Land Issues of the Arabs of Israel,” in *Arab Society in Israel: An Information Compendium*, ed. Yitzhak Reiter and Orna Cohen, 2nd Ed. (Neve Ilan: Abraham Fund Initiatives, 2013), p. 8 [Hebrew].
- 22 Reiter and Cohen, “The Land Issues of the Arabs of Israel,” p. 1.
- 23 The Or Commission Report, p. 767.
- 24 *Ibid.*
- 25 The Lapid Committee Report, p. 27.
- 26 NRG website, April 28, 2015 [Hebrew].
- 27 Based on a report of the Knesset Research and Information Center, “Regularization of the Bedouin Settlement in the Negev,” November 2013, p. 2 [Hebrew].
- 28 Reiter and Cohen, *Arab Society in Israel: An Information Compendium*, Chapter 1.
- 29 See the Ministry of Agriculture and Rural Development’s website at: <http://www.moag.gov.il>.
- 30 “The 120 Day Team’s Report on the Handling of the Housing Crisis in Minority Localities,” June 2015 [Hebrew].
- 31 The Or Commission Report, p. 767.
- 32 State Comptroller, Report for 2012.
- 33 See Yousef Jabareen and Mohanad Mustafa, “Between Governance and the Local: Local Governance in Arab Society in Israel,” in *Inside the Local Government in Palestinian Society in Israel* ed. Yousef Jabareen and Mohanad Mustafa (Haifa, 2003) [Hebrew], pp. 9–12.
- 34 State Comptroller, Report for 2012.
- 35 Rafik Haj, “The Willingness to Pay City Taxes in Arab Society in Israel as a Case Study of Participation in Collective Action,” in *Inside the Local Government in Palestinian Society in Israel*, p. 291.
- 36 State Comptroller, Report for 2012.
- 37 Knesset Research and Information Center, “The Distribution of Government Local Property Tax (*arnona*) by Districts and Sectors,” June 2009 [Hebrew].
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- February 13, 2011 [Hebrew]; Resolution 3211, “Multi-Year Plan for the Development and Strengthening of Bedouin Settlements in the North, 2011–2015,” May 15, 2011 [Hebrew]; Resolution 3708, “Plan for Furthering the Economic Growth and Development of the Bedouin Population, 2012–2016,” September 11, 2011 [Hebrew]; Resolution 4193, “Increasing the Workforce Participation Rate and the Employment Rate,” January 29, 2012 [Hebrew]; Resolution 4432, “Development Plan for the Minority Sectors within the Framework of Implementation of the Report of the Committee for Economic Change (the Trajtenberg Committee),” March 18, 2012 [Hebrew].
- 39 The Prime Minister’s Office, The Authority for the Economic Development of the Arab, Druze, and Circassian Sector, “Plan for the Economic Development of the Arab Sector, Presentation for the Ministry of Finance,” January 2009.
- 40 For details on the Authority for Economic Development, see Chapter 2.
- 41 Michal Belikoff and Safa Agbaria, “From Deficit and Dependence to Balance and Growth: Sources of Income of the Arab Local Councils,” (Sikkuy, April 2014), p. 27 [Hebrew].
- 42 *Ibid.*, p. 28.
- 43 *Ibid.*, p. 30.

## Chapter 5: The Political Reality

- 1 For example, the Arab voting rate dropped from 75% in the 1999 elections to 53.4% in the 2009 elections. See Mohammad Darawshe, “Marginalization Followed by Retreat: The Political Participation of Arab Citizens of Israel,” in *Parliament*, Issue 76, “To Be a Free and Equal People in Our Land? Inequality between Arabs and Jews in Israel” [Hebrew], <http://www.idi.org.il>.
- 2 See the Arab Fund Initiatives study on the effectiveness of voting in elections, in Aya Ben-Amos, ed., *Political Participation of Arab Citizens of Israel—An Attitude Study toward the Elections for the 19<sup>th</sup> Knesset* (Neve Ilan: Abraham Fund, 2012) [Hebrew].
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- 4 Amal Jamal, “The Dynamics of National Inequality in Israel,” in *Society and Economy in Israel: Historical and Contemporary Perspectives* ed. Avi Bareli, Daniel Gutwein, and Tuvia Friling (Jerusalem: Yad Izhak Ben-Zvi and the Ben-Gurion Institute for the Study of Israel, 2005), pp. 145–182 [Hebrew].
- 5 For more on Arab participation in the elections for the twentieth Knesset, see Arik Rudnitzky, “Arab Politics in Israel: Pending Questions,” *Tel Aviv Notes* (April 13, 2015), [Hebrew].

- 6 Yehuda Ben-Meir, "Israel: The 2015 Elections," *INSS Insight* No. 678 (March 29, 2015), <http://www.inss.org.il/index.aspx?id=4538&articleid=9039>. According to the heads of the Joint List, it was the Meretz party that refused to sign an apparentment agreement (known in Hebrew as a '*heskem odafim*,' or "surplus agreement").
- 7 Ibid.
- 8 Rudnitzky, "Arab Politics in Israel."
- 9 Elie Rekhess, "The Islamization of Arab Identity in Israel: the Islamic Movement, 1972-1996," in *Muslim Minorities in Non-Muslim Majority States: The Islamic Movement in Israel as a Case Study* ed. Elie Rekhess and Arik Rudnitzky (Tel Aviv University: Konrad Adenauer Program for Jewish-Arab Cooperation, 2011), pp. 63–74 [Hebrew].
- 10 In 1966, the Islamic Movement in Israel underwent a split sparked by the question of integration into the Israeli political system. The Southern Branch supports participation in Knesset elections and is part of the Joint List (which is represented in the Knesset by the Ra'am-Ta'al faction), whereas the radical Northern Branch does not. Today, the Northern Branch promotes Islamic separatist tendencies and develops ideas regarding the establishment of an independent Muslim community, which would maintain and administer itself independently from the state and the Jewish majority among which it lives. Leaders and spokesmen of the Northern Branch recognize the fact that they live in the state of Israel but proclaim their unwillingness to assimilate—ideologically, politically, and especially culturally—into the Israeli experience, which they maintain does not represent them.
- 11 In a similar manner, Hamas incorporated Palestinian national identity into its Islamic religious identity.
- 12 See Rudnitzky, *Arab Citizens of Israel Early in the Twenty-First Century, Memorandum* (Institute for National Security Studies), 139 (July 2014), p. 24 [Hebrew].
- 13 In the Israeli elections conducted of the past decade, more than 80% of Druze voters voted for Jewish-Zionist parties. See *Ibid.*, p. 20.
- 14 Knesset Member Ayman Odeh's first speech before the Knesset, May 4, 2015: <https://www.youtube.com/watch?v=Agfebo0PdvY> [Hebrew].
- 15 Itamar Radai and Arik Rudnitzky, eds., *Survey of Political Attitudes in the Arab Population in Israel in Anticipation of the Twentieth Knesset Elections* (Tel Aviv: Tel Aviv University, Konrad Adenauer Program for Jewish-Arab Cooperation, March 15, 2015) [Hebrew].
- 16 Odeh's may be indicative of Hadash's strength in the eyes of the other members of the Joint List – Balad, Ahmed Tibi, and the Islamic Movement. See Knesset Member Ayman Odeh's first speech before the Knesset, May 4, 2015: <https://www.youtube.com/watch?v=Agfebo0PdvY> [Hebrew].
- 17 Doron Matza, "The Third Path in Arab Politics in Israel," *Molad: The Forum for Regional Thinking*, July 3, 2015.
- 18 Ibid.

- 19 For example, Aida Touma-Suleiman founded and continues to run Women Against Violence; Haneen Zoabi was active in I‘lam—Media Center for Arab Palestinians in Israel; Basel Ghattas was active in the Galilee Society, which works in the fields of environmental protection and sanitation; Abdullah Abu-Ma‘arouf was active in Physicians for Human Rights; Yousef Jabareen served as the head of the Dirasat Center for Law and Policy and is also a member of the Governing Council of the joint Jewish-Arab Sikkuy organization; and finally, Ayman Odeh has worked with Sikkuy. See Orna Cohen, “A Refreshing Activist Arab Party,” *Molad: The Forum for Regional Thinking*, July 3, 2015 [Hebrew].
- 20 See Appendix 2.
- 21 See Orna Cohen, “The Joint List: A Gender Struggle and Social Change,” *Molad: The Forum for Regional Thinking*, July 3, 2015 [Hebrew]; Naomi Darom, “Aida Touma-Suleiman is Committed to Disadvantaged Women—El-AI Flight Attendees Will Have to Wait,” *Haaretz*, July 11, 2015 [Hebrew], <http://www.haaretz.co.il/magazine/premium-1.2679837>.

## Chapter 6: The Roots of the Conflict and the Continuing Struggle for Equality

- 1 Matti Steinberg, “Implications of the Establishment of a Palestinian State for Its Relations with the Palestinians in Israel,” in *The “Two States for Two Peoples” Solution: Jews and Arabs in Israel* (The S. Daniel Abraham Center for Strategic Dialogue, January 2010), pp. 15–17 [Hebrew].
- 2 In its sixth conference, held in Bethlehem in the summer of 2009, the Fatah movement decided to reject Israel’s demand to be recognized as a Jewish state on the grounds that this would detrimentally impact the status of their fellow Palestinians in Israel (another reason for rejecting the demand pertained to the refugees’ right of return).
- 3 See Amal Jamal, “Between Hollow Citizenship and Indigenous Politics,” November 6, 2010, *Haoketz* [Hebrew], <http://www.haokets.org>. This article was originally published in *Jadal* 8, the digital publication of Mada al-Carmel.
- 4 See Amal Jamal, “The Ineffective Political Underrepresentation of the Arab Citizens of Israel,” in *Arabs in Israel: Barriers to Equality* ed. Shlomo Hasson and Michael Karayanni (Jerusalem: Floersheimer Institute for Policy Studies, September 2006), pp. 125–140 [Hebrew].
- 5 For example, between 1999 and 2001, the Israel Democracy Institute held discussions between Jews and Arabs that were aimed at formulating a covenant toward coexistence in Israel but that failed to achieve an agreement. As a result, it was decided to present the discussions to the public. For more, see the following book that was based on these discussions: Uzi Benziman, ed., *Whose Land Is It? A Quest for a Jewish-Arab Covenant in Israel* (Jerusalem: Israel Democracy Institute, 2006) [Hebrew].

- 6 See Honaida Ghanim, *Rebuilding the Nation: Palestinian Intellectuals in Israel* (Jerusalem, Magnes Press, 2010), pp. 143, 151 [Hebrew].
- 7 The four position documents included: “The Future Vision of the Palestinian Arabs in Israel,” written by Arab scholars and intellectuals and published by the National Committee for the Heads of the Arab Local Authorities in Israel; an essay titled “An Equal Constitution for All?” written by legal scholar Yousef Taysir Jabareen and issued by the Mossawa Center; “The Democratic Constitution,” published by Adalah: The Legal Center for Arab Minority Rights in Israel; and “The Haifa Declaration,” published by Mada al-Carmel: The Arab Center for Applied Social Research. See Sarah Ozacky-Lazar and Mustafa Kabha, *Between Vision and Reality: The Vision Documents of the Arabs in Israel, 2006–2007* (Jerusalem: Citizens’ Accord Forum between Jews and Arabs in Israel, 2008) [Hebrew].
- 8 Nadim Rouhana, “The United States should not be fooled by Israel’s claim that it can be both Jewish and Democratic,” *Foreign Policy* April 22, 2010, <http://foreignpolicy.com/2010/04/22/a-state-for-all-its-citizens-2/>.
- 9 See Ghanim, *Rebuilding the Nation*. Ghanim holds that “the Palestinians’ liminality is twofold: Palestinian liminality, because they are citizens of Israel, and Israeli liminality, because they are Palestinians” (p. 38). She posits that “The Palestinians in Israel are located in the Palestinian national landscape that is outside the borders of the state . . . On the civic level, they are located in the Israeli-civil landscape . . . They are located in the liminal space between the different layers, which do not overlap and are sometimes contradictory” (p. 37), (for example, the contradiction between the history of the Arabs and the history of the Jews).
- 10 Amal Jamal, “Arab Citizens in Israeli Politics,” (lecture in the course “Jewish-Arab Relations in the State of Israel,” Tel Aviv University, April 28, 2010) [Hebrew].
- 11 In contrast, the trauma of loss, which enables a coming to terms with that which cannot be restored, glorifies the act of remaining in the homeland and seeks non-exilic solutions such as the country’s partition into two states. Advocates of this approach support the Arab League Peace Initiative of 2002. On the distinction between the trauma of loss and the trauma of lack, from which various contradictory political approaches have been derived, see Matti Steinberg, “The Nakba as Trauma: Two Ways of Relating to Palestinians and Their Implications,” in *The Nakba in Israeli National Memory* ed. Amal Jamal and Ephraim Lavie (Ramat Aviv: Tel Aviv University, 2015) [Hebrew].
- 12 See Marzuk Halibi’s words in Ghanim, *Rebuilding the Nation*, p. 150.
- 13 See Ben Caspit and Yonatan Hilleli, “Arab Israelis’ Increasing Identification with Iran,” *NRG*, March 13, 2007 [Hebrew], <http://www.nrg.co.il/online/1/ART1/555/618.html>.
- 14 This explanation was conveyed to writer Ala Hlehel after he approached the agency with the following question: Does not the GSS’s position regarding the vision statements constitute a non-democratic attempt to enforce silence? See the

website of *Occupation Magazine*, “Political Persecution and Concealment against Arab Citizens and Elected Representatives,” April 7, 2007 [Hebrew], [http://www.kibush.co.il/show\\_file.asp?num=19316](http://www.kibush.co.il/show_file.asp?num=19316).

- 15 See Meirav Arlosoroff, “The GSS Actually Believes in the Loyalty of the Arabs of Israel,” *The Marker*, July 3, 2012 [Hebrew], <http://www.themarker.com/news/1.1746530>.
- 16 See Achiya Rabad, “Olmert: In Israel There is Discrimination against Arabs,” *Ynet*, July 10, 2008 [Hebrew], <http://www.ynet.co.il/articles/0,7340,L-3566713,00.html>.

## Chapter 7: New Legislative Initiatives by the State

- 1 See above, Part I, Chapter 2.
- 2 For a more extensive discussion on this issue, see Mordechai Kremnitzer, Amir Fuchs, and Dana Blander, *Anti-Democratic Legislation in the 18<sup>th</sup> Knesset (2009–2013)* (Jerusalem: Israeli Democracy Institute, 2015) [Hebrew].
- 3 For a succinct critical review of the legacy of Israeli Chief Justice Asher Gronis in the arena of constitutional law, including the revival of the ripeness doctrine, see Barak Medina, “One Step Too Far,” *Orech Hadin* [Israeli Bar Journal] (no. 26, January 2015), p. 48 [Hebrew], <http://www.dmag.co.il/pub/israelbar/lawyer26/files/assets/common/downloads/publication.pdf>.
- 4 Draft Independence Day Law (Amendment—Prohibition of Observing Independence Day or the Establishment of the State of Israel as a Day of Mourning), 2009 [Hebrew].
- 5 For a critique of this bill, see Mordechai Kremnitzer and Roi Konfino, “Legislative Comment: the Independence Day Bill (Amendment—Prohibition of Observing Independence Day or the Establishment of the State of Israel as a Day of Mourning), 2009,” Israel Democracy Institute, May 26, 2009 [Hebrew].
- 6 The Budget Law (Amendment No. 40), 2011 [Hebrew], [http://fs.knesset.gov.il/18/law/18\\_lsr\\_301085.pdf](http://fs.knesset.gov.il/18/law/18_lsr_301085.pdf). See also the March 8, 2011 opinion on The Budget Law (Amendment No. 39) (Reduction of Funding or Support due to Activity against the Principles of the State), 2010, authored by the researchers of the Israel Democracy Institute, sent to the chairperson of the Knesset Constitution, Law and Justice Committee [Hebrew].
- 7 For the petition documents and the responses of the respondents, see “Annul the ‘Nakba Law’” Association for Human Rights in Israel [Hebrew], <http://www.acri.org.il/he/11916>. In English, see “High Court Ignores Chilling Effect Caused by the ‘Nakba Law’,” <http://www.acri.org.il/en/2012/01/05/high-court-ignores-chilling-effect-caused-by-the-nakba-law/>.
- 8 HCJ 3429/11, *Alumni Association of the Arab Orthodox School in Haifa v. Minister of Finance et al.* (January 5, 2012) [Hebrew].

- 9 “ACRI and Adalah’s Response to the Ruling in the ‘Nakba Law’ Petition,” Association for Civil Rights in Israel (January 5, 2011) [Hebrew], <http://www.acri.org.il/he/18987>.
- 10 See, for example, the January 26, 2011 opinion of the Israel Democracy Institute, sent to the chairperson of the Knesset Constitution, Law, and Justice Committee [Hebrew], <http://www.idi.org.il/9791.aspx>.
- 11 Law to Amend the Cooperative Societies Ordinance (Amendment No. 8), 2011 [Hebrew], [http://fs.knesset.gov.il/18/law/18\\_lsr\\_301023.pdf](http://fs.knesset.gov.il/18/law/18_lsr_301023.pdf).
- 12 For the petition documents and the responses of the respondents, see “Annul the Acceptance Committees Law” Association for Human Rights in Israel [Hebrew], <http://www.acri.org.il/he/12905>.
- 13 For the petition documents, see “Petition against the Acceptance Committees,” Adalah [Hebrew], <http://www.adalah.org/he/content/view/3216>.
- 14 HCJ 2311/11, *Ori Sabach et al. v. the Knesset et al.* (September 17, 2014) [Hebrew].
- 15 “HCJ Approves Acceptance Committees in Community Settlements – Response of the Abraham Funds Initiatives,” Abraham Fund Initiative [Hebrew], <http://www.abrahamfund.org/11076>.
- 16 See Or Tuttnauer and Gideon Rahat, “The Governance Bill,” Israel Democracy Institute (May 13, 2013) [Hebrew]; Prof. Barak Medina, “Is the Knesset Authorized to Raise the Electoral Threshold to Four Percent?” Law Lecturers’ Blog, Faculty of Law, The Hebrew University of Jerusalem (July 29, 2013). Also see two opinions submitted to the chairperson of the Knesset’s Constitution, Law, and Justice Committee by the Israel Democracy Institute: Gideon Rahat and Ofer Kenig, “Bill Basic Law: The Government (Amendment—Changing the Governing System) and “Bill Basic Law: The Government (Amendment—Increasing Governance and Raising the Electoral Threshold): An Opinion Submitted to Constitution, Law, and Justice Committee Chairman David Rotem” (July 18, 2013) [Hebrew]; Gideon Rahat, “Bill Basic Law: The Government (Amendment) (Increasing Governance) and Draft Knesset Elections Law (Amendment No. 61) (Raising the Electoral Threshold and Increasing Governance)—A Second Opinion on the Subject, Submitted to Constitution, Law, and Justice Committee Chairman MK David Rotem” (October 5, 2013)[Hebrew].
- 17 See Gideon Rahat and Or Tuttnauer, “The Governance Law—*Ad Kan*,” Israel Democracy Institute (March 10, 2014) [Hebrew].
- 18 The Knesset Elections Law (Amendment No. 62), 2014 [Hebrew], [http://www.knesset.gov.il/review/data/heb/law/kns19\\_2.pdf](http://www.knesset.gov.il/review/data/heb/law/kns19_2.pdf).
- 19 For the petition documents, the protocol of the proceedings, the response of the respondents, and the ruling itself, see “Raising the Electoral Threshold,” Association for Civil Rights in Israel [Hebrew], <http://www.acri.org.il/he/33644>.
- 20 The Knesset’s position was that the “judicial limitation clause” should not be applied to the case in question. Because the Law had been approved by the relative majority

required by Sections 4 and 46 of Basic Law: The Knesset (which stipulates that amending the law requires a majority of at least sixty-one members of Knesset) and in the absence of an explicit fundamental limitation clause in the Basic Law itself, the Law should not continue to be subject to the conditions of a judicial limitation clause.

- 21 HCJ 3166/14, *Yehuda Gutman et al. v. Attorney General et al.* (January 13, 2015) [Hebrew].
- 22 Some of the justices who signed off on Chief Justice Grunis's opinion denying the petitions maintained that although in their opinion they were ripe for decision, raising the electoral threshold met the conditions of the "judicial limitation clause" and was therefore constitutional.
- 23 See the official results of the elections for the twentieth Knesset at the website of the Central Elections Committee for the Twentieth Knesset [Hebrew], <http://votes20.gov.il/>.
- 24 See the official results of the elections for the nineteenth Knesset at the website of the Elections Committee for the Nineteenth Knesset [Hebrew], <http://www.votes-19.gov.il/nationalresults>.
- 25 See the Citizenship and Entry into Israel Law (Temporary Order), 2003 (published August 6, 2003) [Hebrew], [http://fs.knesset.gov.il/16/law/16\\_lsr\\_299811.pdf](http://fs.knesset.gov.il/16/law/16_lsr_299811.pdf).
- 26 See the Citizenship and Entry into Israel Law (Temporary Order) (Amendment), 2005 (published August 1, 2005) [Hebrew], [http://fs.knesset.gov.il/16/law/16\\_lsr\\_299977.pdf](http://fs.knesset.gov.il/16/law/16_lsr_299977.pdf).
- 27 HCJ 7052/03, *Adalah: The Legal Center for Arab Minority Rights in Israel v. Minister of the Interior*, PD 61 (ii) 202 (2006) [Hebrew].
- 28 *Ibid.*, see Section 24 of Justice Jubran's opinion: "depriving the Interior Minister of discretion, ab initio, to examine the possibility of whether citizenship should be given to any of the residents of the territories in actualization of an Israeli citizen's right to family life, by ignoring the specific circumstances of the case, raises the concern of whether the security consideration was not the only consideration underlying the enactment of the law and calls into question the policy that this law wishes to achieve. This concern becomes even greater when we survey the legislative history that led to the enactment of the law, which, whether in a concealed or express manner, associates the law with the government's demographic policy . . ." See also Section 14 of the opinion of Justice Procaccia: "In examining the credibility of the security consideration, we should also not ignore the fact that at various times during the legislative process of the law and its amendment, the demographic issue was raised and debated against the background of the blanket prohibition against the entry of Palestinian spouses from the territories into Israel. Admittedly, the state, when presenting the law, pointed to the security consideration as a sole consideration. Nonetheless, from the debates in the Knesset it can be seen that the demographic issue hovered over the legislative process the entire

time, and was a major issue in the deliberations of the Interior Affairs Committee of the Knesset and the House . . . the demographic consideration hovered in the background of the legislative process of the law, and it is difficult to escape the impression, despite the denial of the state in this regard, that it had a presence of some weight or another in the process of formulating the blanket prohibition against the entry of Palestinian spouses from the territories into Israel within the framework of family reunifications . . . The possibility of the existence of an additional motive in the background to the legislation of the law, even if there is nothing in this to reduce the credibility of the security consideration, may reflect to some extent on its weight and strength.”

- 29 See the Citizenship and Entry into Israel Law (Temporary Order) (Amendment No. 2), 2007 (published on March 28, 2007) [Hebrew], [http://fs.knesset.gov.il/17/law/17\\_lsr\\_300675.pdf](http://fs.knesset.gov.il/17/law/17_lsr_300675.pdf).
- 30 HCJ 466/07, *Galon v. the Attorney General* (2012).
- 31 HCJ 7052/03, *Adalah: The Legal Center for Arab Minority Rights in Israel v. Minister of the Interior*, p. 285.
- 32 *Ibid.*, Paragraph 110 of Chief Justice Barak’s opinion.
- 33 *Ibid.*, Section 5 of Justice’s Grunis’s opinion.
- 34 See, for example, Barak Medina and Ilan Saban, “Human Rights and Risk-Taking: On Democracy, Ethnic-Profilng and the ‘Limitation Clause’ (following the Ruling on the Validity of the Citizenship and Entry into Israel Law),” *Mishpatim* 39 (2009): 47 [Hebrew]; Liav Orgad, “Immigration, Terrorism, and Human Rights: Policy regarding Entry into Israel during States of Emergency (following HCJ 7052/03 *Adalah v. Minister of the Interior*),” *Mikkarei Mishpat* 25 (2009): 485 [Hebrew]; Amnon Rubinstein and Liav Orgad, “Human Rights and National Security: The Case of Israeli Restrictions of Family Reunification during Armed Conflict,” *Hapraklit* 48 (2006): 315 [Hebrew]; Yaffa Zilbershats, “Coping with Non-Jewish Immigration to Israel (Case Comment),” *Mishpat Umimshal* 10 (2006): 87 [Hebrew]; Guy Davidov, Jonathan Yovel, Ilan Saban, and Amnon Reichman, “State or Family? The 2003 Amendment to the Citizenship and Entrance to Israel Law,” *Mishpat Umimshal* 8 (2005): 643 [Hebrew]; Aeyal Gross, “In Love with the Enemy: Justice, Truth, Integrity, and Common Sense between Israel and Utopia in the Citizenship Law Case,” *Hamishpat* 13 (2007): 141 [Hebrew]; Yaacov Ben-Shemesh, “Constitutional Rights, Immigration, and Demography,” *Mishpat Umimshal* 10 (2006): 47 [Hebrew].
- 35 See endnote 29 above.
- 36 HCJ 466/07, *Galon v. the Attorney General* (2012).
- 37 *Ibid.*, Paragraph 18 of Chief Justice Beinisch’s opinion.
- 38 See above, Part I, Chapter 1.
- 39 Discharged Soldiers Law, 1984, Knesset website, Legislation [Hebrew], <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?lawitemid=2000661>.

- 40 Absorption of Discharged Soldiers Law, 1994, Knesset website, Legislation [Hebrew], <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawPrimary.aspx?lawitemid=2000661>.
- 41 See the April 19, 1994 minutes of the Knesset Plenum leading up to the second and third readings of the Absorption of Discharged Soldiers Law, 1994, p. 13 [Hebrew], <http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawSecondary.aspx?lawitemid=154135>, during which Anat Maor of the Meretz party commented as follows: “The third point is that we removed two sections that discriminated against the country’s Arab minority—one that gave precedence to discharged soldiers in hiring, and one that attempted to give them precedence in receiving higher education. It is good that the committee annulled these benefits, as it is our role to award grants, under law, to men and women soldiers who served the country for two years, three years, and more, but to do so without violating the principle of the civic equality of all citizens of the country. I am pleased that we were able, by agreement, to produce a bill from which these two sections were eliminated.”
- 42 HCJ 381/91, *Leah Gross v. Ministry of Education and Culture et al.*, PD 44(i), 53 [Hebrew].
- 43 *Ibid.*, p. 57.
- 44 HCJ 11956/05, *Suhad Bishara et al. v. Minister of Construction and Housing* (December 13, 2006).
- 45 *Ibid.*, Sections 5-6.
- 46 HCJ 11163/03, *Higher Monitoring Committee for Arab Affairs in Israel et al. v. Prime Minister of Israel*, Takdin – Supreme Court Rulings 2008 (4) 2003 [Hebrew].
- 47 HDC 217/05, *Na’amneh et al. v. University of Haifa* (August 17, 2006) [Hebrew].
- 48 *Ibid.*, Section 31.
- 49 *Bishara et al. v. Minister of Construction and Housing*, see endnote 308 above, Section 10.
- 50 Absorption of Discharged Soldiers Law (Amendment No. 7), 2008 (published on February 27, 2008) [Hebrew], [http://fs.knesset.gov.il/17/law/17\\_Isr\\_300627.pdf](http://fs.knesset.gov.il/17/law/17_Isr_300627.pdf). See also the explanatory note regarding the bill for Amendment No. 7 [Hebrew], <https://knesset.gov.il/Laws/Data/BillKnesset/211/211.pdf>.
- 51 Bill: Rights of Contributors to the State, 2013 (P/19/275) [Hebrew], [www.knesset.gov.il/privatelaw/data/19/1596.rtf](http://www.knesset.gov.il/privatelaw/data/19/1596.rtf).
- 52 See “The Position of the Attorney General on the Bill: Rights of Contributors to the State, 2013,” on the website of the Justice Ministry (June 19, 2013) [Hebrew], <http://index.justice.gov.il/Pubilcations/News/Pages/ChokZchuyotTormim.aspx>.
- 53 See, for example, the opinion of Mordechai Kremnitzer, Talya Steiner, and Amir Fuchs, “Bill: Rights of Contributors to the State, 2013” (Israel Democracy Institute, June 13, 2013), which was sent to the Ministerial Committee on Legislative Affairs, and MK Yariv Levin’s “Bill: Rights of the Contributors to the State, 2013 (P/19/75),” Association for Civil Rights in Israel (July 1, 2013) [Hebrew], <http://>

- www.acri.org.il/he/wp-content/uploads/2013/06/hatormim030713.pdf; “Position Paper: Private Bill No. 275/19, Bill: Rights of the Contributors to the State, 2013,” The Mossawa Center: The Advocacy Center for Arab Citizens in Israel (May 12, 2013) [Hebrew], <http://www.fightracism.org/Article.asp?aid=444>.
- 54 See the Knesset legal advisor’s letter to the Attorney General (legislation): “Bill: Rights of Contributors to the State, 2013” (July 15, 2013) [Hebrew], <https://bit.ly/2GYEKVO>.
- 55 Bill: Rights of Contributors to the State, 2013 (P/19/1596) [Hebrew], [www.knesset.gov.il/privatelaw/data/19/1596.rtf](http://www.knesset.gov.il/privatelaw/data/19/1596.rtf).
- 56 See, for example, the opinion of Mordechai Kremnitzer, Talya Steiner, and Amir Fuchs, “Bill: Rights of Contributors to the State, 2013” (Israel Democracy Institute, October 24, 2013) [Hebrew], which was sent to members of the Ministerial Committee on Legislative Affairs, and “Bill: Rights of the Contributors to the State, 2013 (P/19/1596),” Adalah: The Legal Center for Arab Minority Rights in Israel (October 24, 2013) [Hebrew].
- 57 See “The Position of the Attorney General on MK Levin’s revised Bill: Rights of Contributors to the State, 2013,” on the website of the Justice Ministry (October 29, 2013) [Hebrew], <http://index.justice.gov.il/Pubilcations/News/Pages/ZcuyotTormim.aspx>.
- 58 See “Despite Weinstein’s Opposition: the Rights of the Contributors to the State Law was Approved a Second Time,” *Globes* 19, October 2013 [Hebrew], <http://www.globes.co.il/news/article.aspx?did=1000889157>.
- 59 See “The Rights of Contributors to the State Law, A New Law,” Open Knesset website, <https://oknesset.org/bill/3845/> [Hebrew]; Electronic voting in the Knesset plenum—The Rights of Contributors to the State Law, 2013, Knesset website, [http://www.knesset.gov.il/vote/heb/Vote\\_Res\\_Map.asp?vote\\_id\\_t=19685](http://www.knesset.gov.il/vote/heb/Vote_Res_Map.asp?vote_id_t=19685) [Hebrew].
- 60 Bill Basic Law: Israel as the Nation State of the Jewish People, 2011 (P/18/3541) [Hebrew].
- 61 See, for example, Alexander Yakobson, “A Jewish State . . .” *Haaretz*, August 14, 2011 [Hebrew], <http://www.haaretz.co.il/opinions/1.1372738>. See also the opinion prepared by the Association for Civil Rights in Israel, “Draft Basic Law: Israel as the Nation State of the Jewish People (P/18/3541), submitted by MK Dechter and Others” (October 23, 2011), and the opinion prepared by the Israel Democracy Institute, “Bill Basic Law: Israel as the Nation State of the Jewish People (October 13, 2013) [Hebrew], and from May 2, 2014. Also see the position paper of Molad: The Center for the Renewal of Israeli Democracy, “Basic Law: Israel as the Nation State of the Jewish People” [Hebrew], <http://www.molad.org/images/upload/files/StateOfJewishPeople.pdf>.
- 62 On the issue of the Arabic language, it is important to note the previous bills that sought to terminate Arabic’s status as an official language in Israel. See, for example, Jonathan Lis, “Bill: Termination of the Arabic Language’s Status as an Official

- Language in Israel,” *Haaretz*, August 26, 2014 [Hebrew], <http://www.haaretz.co.il/news/education/1.2416209>. Also see the response issued by the Abraham Fund Initiatives (August 26, 2014) [Hebrew], <http://www.abrahamfund.org/11065>. For more on the status of the Hebrew and Arabic languages in Israel, see Alexander Yakobson, “The Status of Arabic in Israel,” *Metzilah* (March 2014) [Hebrew], [www.metzilah.org.il/1194](http://www.metzilah.org.il/1194).
- 63 See, for example, Alon Harel, “Why does the Nation Law actually do harm to Judaism?” Molad: The Center for the Renewal of Israeli Democracy (August 26, 2013) [Hebrew], <https://bit.ly/2JNByxS>.
- 64 Bill Basic Law: Israel as the Nation State of the Jewish People (P/19/1550).
- 65 Bill Basic Law: Israel as the Nation State of the Jewish People (P/19/2502).
- 66 Bill Basic Law: Israel as the Nation State of the Jewish People (P/19/2530).
- 67 Bill Basic Law: Israel as the Nation State of the Jewish People (P/19/2883).
- 68 See Prof. Gavison’s letter of appointment from Justice Minister Tzipi Livni (August 12, 2013) [Hebrew], <http://index.justice.gov.il/StateIdentity/Documents/Livni.pdf>.
- 69 See Ruth Gavison, “Constitutional Grounding of the Vision of the State?” Recommendations according to the August 2013 appointment by the Justice Minister and background documents for their formulation [Hebrew], [www.metzilah.org.il/1196](http://www.metzilah.org.il/1196).
- 70 With regard to the state vision’s component of Judaism, Prof. Gavison maintains that Israel is a democracy that is dedicated to preserving human rights and must remain as such. However democracies, she points out, are not obligated to be civil, secular, or neutral: “Arrangements that preserve and facilitate actualization of the Jews’ right to self-determination can be integrated into the vision, the other components of which are vibrant and resilient democracy and respect for the rights of all its members and the groups living within it. Moreover, the state, which was established and exists for the purpose of ensuring the national revival of the Jews, is in constant struggle with its surroundings over its existence and its identity; contains a significant Arab minority that does not share this vision; and is not home to many important Jewish communities that live outside its borders. It therefore cannot be only neutral or civil. Neutral civil democracy is not only unessential, but it is also not well suited for Israeli society and the reality in Israel.” *Ibid*.
- 71 See the announcement of the Government Secretary at the end of the government meeting of November 23, 2014 [Hebrew], <http://www.pmo.gov.il/MediaCenter/SecretaryAnnouncements/Pages/govmes231114.aspx>.

## Chapter 8: Manifestations of Hatred and Racism

- 1 The Or Commission Report, Chapter 6, Paragraph 41.
- 2 Sammy Smoocha, *Still Playing by the Rules: The Index of Arab-Jewish Relations in Israel 2012* (Haifa: Israel Democracy Institute and University of Haifa, 2013) [Hebrew].

- 3 Ari Pines, "Behind the Flames," *MAKO*, August 19, 2014 [Hebrew], [www.mako.co.il/weekend-articles/Article-84bcac6f5cde741006.htm](http://www.mako.co.il/weekend-articles/Article-84bcac6f5cde741006.htm).
- 4 Ilan Lior, "The Lehava Organization Threatens to Disrupt a Wedding between a Muslim Man and a Jewish Woman," *Haaretz*, November 14, 2014 [Hebrew], [www.haaretz.co.il/news/local/1.2406864](http://www.haaretz.co.il/news/local/1.2406864).
- 5 Oz Rosenberg, "The Radical Right is Mapping Stores that Employ Arabs," *Haaretz*, November 21, 2011 [Hebrew], [www.haaretz.co.il/1.1571146](http://www.haaretz.co.il/1.1571146).
- 6 Eli Shvidler, "This Referee is Destroying 40 Years of Coexistence," *Haaretz*, September 8, 1996. The following review of racism and violence in Israeli soccer is based on Chen Kertcher, *Between Integration and Exclusion: The Reflection of Arabs in the Hebrew-Language Sports Media during Peacetime and Times of Security Crisis* (Tel Aviv University: Tami Steinmetz Center for Peace Research, 2015) [Hebrew].
- 7 See Criminal Appeal 1252/06, *Tachan v. State of Israel*, 23 April 2006 [Hebrew].
- 8 Yaniv Orgad, "In the Stands," *Yedioth Ahronoth*, April 15, 2002 [Hebrew].
- 9 Nir Hasson, "Arson at the Management Officers of Beitar Jerusalem in Bayit Vegan," *Haaretz*, February 8, 2013 [Hebrew], [www.haaretz.co.il/sport/israel-soccer/1.1925311](http://www.haaretz.co.il/sport/israel-soccer/1.1925311); David Ben Shimol, "This is how the La Familia organization seized control of Beitar," *Ynet*, February 19, 2014 [Hebrew], [www.ynet.co.il/articles/0,7340,L-4489830,00.html](http://www.ynet.co.il/articles/0,7340,L-4489830,00.html).
- 10 Oded Zargari and Ali Gali, "Bnei Sakhnin Captain Abbas Suan on the Way to Beitar Jerusalem," *Haaretz*, November 17, 2005 [Hebrew].
- 11 The player, Amit Ben-Shushan, was only tried for his actions before the Israel Football Association. His punishment was to give lectures against racism to teenagers and to participate in an educational campaign with Salim Tuama. The State Prosecutor's Office decided not to place him on trial. See Lee Botz, "Amit Ben-Shushan: 'I Hate All the Arabs,'" *Ynet*, May 27, 2009 [Hebrew].
- 12 For an extensive account of the expressions of racism that occurred in Israeli sports in 2012–2013, see the Racism Report of the Coalition against Racism in Israel [Hebrew], <http://www.fightracism.org/print.asp?aid=390>.
- 13 See, for example, an account of the game played at Doha between Beitar Jerusalem and Bnei Sakhnin, in Motti Pshehazkey and Tomer Levi, "Chaos and Chants of 'Death to the Arabs' in the Beitar Stands," Channel 5 Sports website, November 3, 2014 [Hebrew], <http://www.sport5.co.il/articles.aspx?FolderID=64&docID=179590&lang=HE>.
- 14 Chen Maanit, "Three Fans of Maccabi Tel Aviv Accused of Shouting Racist Slurs at Maharan Radi," *Globes*, November 20, 2014 [Hebrew], <http://www.globes.co.il/news/article.aspx?did=1000987829>.
- 15 Mati Ben-Haim, "Haifa Fans Do Not Forgive Tawatha," Sport 1 website, July 29, 2014 [Hebrew], <https://bit.ly/2H3lsmc>.

- 16 See President Rivlin's remarks at "*Beyakhad*" ("Together") conference for the prevention of violence and racism, the Soccer League Administration, December 2, 2014 [Hebrew], [http://www.president.gov.il/ThePresident/Speeches/Pages/news\\_021214\\_03.aspx](http://www.president.gov.il/ThePresident/Speeches/Pages/news_021214_03.aspx).
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- 20 Furat Nassar, "Storm Erupts in a Fitness Club due to an Insulting Status," MAKO, December 5, 2013 [Hebrew], [http://www.mako.co.il/news-israel/local/Article6f442c12533c241004.htm?sCh=31750a2610f26110&Partner=facebook\\_share](http://www.mako.co.il/news-israel/local/Article6f442c12533c241004.htm?sCh=31750a2610f26110&Partner=facebook_share).
- 21 Buzzila, "The Discourse of Violence on the Internet between July 11 and 14, 2014," from the website of the Coalition against Racism in Israel, [www.fightracism.org](http://www.fightracism.org) [Hebrew].
- 22 Nadav Neuman, "Fighting Incitement: Facebook Removed Lehava's Page," July 23, 2014 [Hebrew], [www.feeder.co.il/article-facebook-shuts-racist-pages-1000957383](http://www.feeder.co.il/article-facebook-shuts-racist-pages-1000957383).
- 23 Yarden Skop, "Right Wing Activists Assault Left Wing Activists at a Demonstration in Tel Aviv," *Haaretz*, July 13, 2014 [Hebrew], [www.haaretz.co.il/news/local/1.2374629](http://www.haaretz.co.il/news/local/1.2374629).
- 24 See, for example, Yoav Eliasi's letter of thanks that appeared on the Facebook page of "The Lions of the Shadow" after a July 12, 2014 demonstration in Tel Aviv, which included the following excerpt: "Thank you to the Lehava organization, which turned out; thank you to 'Kahane Chai' [Kahane Lives]." See: "Who Are You, Lions of the Shadow?" MAKO, July 13, 2014 [Hebrew], [www.mako.co.il/special-mako-news/Article-882d859b27f2741006.htm](http://www.mako.co.il/special-mako-news/Article-882d859b27f2741006.htm).
- 25 Penal Law (Amendment No. 20), 1986, *Laws of the State of Israel* 1191, August 13, 1986 [Hebrew].
- 26 Penal Law (Amendment No. 24), 1985, *Laws of the State of Israel* 1728, April 17, 1985 [Hebrew].
- 27 Penal Law (Amendment No. 82), 2004, *Laws of the State of Israel* 1961, November 17, 2004 [Hebrew].
- 28 See the New Israel Fund website [Hebrew] at <http://nif.org.il/programs/soccer/about>.
- 29 The following is an excerpt from the law itself: "Prohibition of Racist Remarks: A person making a racist remark during a sports event is subject to two years imprisonment. In this law, a 'racist remark' includes the articulation of words, sounds, or roars, and visual expressions, by a person—alone, with another, or in a group—that constitutes a threat or causes humiliation or degradation; the display of enmity, hostility or violence, or the causing of an altercation with an individual,

- a group, or part of the population, all because of their color, racial affiliation, religion, or national and ethnic origin.” [Hebrew], [www.knesset.gov.il/Laws/Data/law/2182/2182.pdf](http://www.knesset.gov.il/Laws/Data/law/2182/2182.pdf).
- 30 See the Coalition against Racism, “Racism in Israel for 2013” [Hebrew], [www.fightracism.org/cat.asp?cat=14](http://www.fightracism.org/cat.asp?cat=14).
- 31 “The Other is Me: Observing Tolerance Week,” [Hebrew], <http://edu.gov.il/owIHeb/CHativa/YozmutHinochyotVRefurmot/other-one/Pages/Toleranceweek.aspx>.
- 32 See above, Section I, Chapter 3, and endnote 9.
- 33 Adar Cohen, “What else must we do to fight extremist and racist views in the education system?” in *Education Policy for Democracy*, Israel Democracy Institute and the Open University (for the Dov Lautman Conference on Education Policy, June 2, 2015), pp. 54–58 [Hebrew].
- 34 Ibid.

## Chapter 9: “I Have No Other Country”—Trends of Adaptation and Integration

- 1 Sammy Smooha, *Still Playing by the Rules: Index of Arab-Jewish Relations in Israel, 2012* (Jerusalem: University of Haifa and the Israel Democracy Institute, 2013), pp. 22–23 [Hebrew].
- 2 See Meirav Arlosoroff, “The Arabs are Employed—But Only in Agriculture and Construction,” *Haaretz*, April 13, 2010 [Hebrew].
- 3 See Hami Peres, “Corrective Entrepreneurship,” *Globes*, April 19, 2010 [Hebrew]; Kobi Hoberman, “The Engine of Economic Integration as Part of a New Proposed Policy to Develop Engines for Arab Citizens’ Integration into Israel,” in *The Economic Benefits of Social Inclusion and Jewish-Arab Equality*, ed. Uri Gofer (The Abraham Fund Initiatives, September 2008), pp. 25–43 [Hebrew].
- 4 For examples of Jewish-Arab projects in the field of cinema, see *The Jisr Boys*, a film depicting life in the village of Jisr al-Zarqa [Hebrew], <http://arts.tau.ac.il/news/Jisrboys>; also see the work of Osnat Bar-Or and Manar Zoabi, which engages in the visual exploration of politically charged controversial issues in Jewish-Arab relations with the aim of arousing public discourse and social change. See “A New Course at the University of Haifa: An Interview with Osnat Bar-Or and Manar Zoabi,” *Mabat: Awareness of a Multicultural Society* [Hebrew], <http://mabat.org/story>.
- 5 Based on Lee Pearlman’s study “Acting Side by Side on the Israeli Stage: Jewish/Palestinian Theatre Collaboration in Israel,” dissertation abstract, Tel Aviv University, November 2011. The study considers the social, cultural, and political significance of joint binational theater productions engaged in by Jewish and Palestinian citizens of the state of Israel since the outbreak of the al-Aqsa Intifada and the events of October 2000. The study examines the theatrical strategies and the ideological goals of these productions and explores how the creative processes and theatrical

products reflect and represent the conflictual relations between the two national groups on the stage. It also explores artists' attempt to contend with these complex relations. Pearlman reveals the productions' attempts to present, struggle with, manage, and resolve the Palestinian-Israeli conflict and Israel's internal Jewish-Palestinian divide.

- 6 Ibid.
- 7 Chen Kertcher, *Between Integration and Exclusion: The Reflection of Arabs in the Hebrew-Language Sports Media during Peacetime and Times of Security Crisis* (Tel Aviv University: Tami Steinmetz Center for Peace Research, 2015) [Hebrew].
- 8 Ibid. See also Muhammad Hasadiya, "The History of the Arab Players," on the website *People Israel: The Guide to Israeli Society*, the Samuel Neaman Institute for Advanced Studies in Science and Technology [Hebrew], October 15, 2013, <http://www.peopleil.org/details.aspx?itemID=30301>; Yoram Melzer, "The World from the Height of the Grass," *Panim: Quarterly for Society, Culture, and Education*, No. 16 (March 2001) [Hebrew], <http://lib.cet.ac.il/pages/item.asp?item=8685>.
- 9 Researcher Erez Marantz, who pointed out an increased rate of workforce participation and mall visits by Arab women, found that the mall and the everyday contact that take place there have an effect that contributes to equality. He cites one Arab woman as saying: "Here, we're all equal—Arabs, Jews, Russians. We're all customers here. We're equal because we all have the same money. I know many Jewish store managers by name and we exchange greetings." See Erez Marantz et al., "Israeli-Palestinian Women in the Retail Industry Social Boundaries and Job Search Techniques," in *Palestinians in the Israeli Labor Market*, ed. Nabil Khattab and Sami Miaari (New York: Palgrave Macmillan, 2013), p. 146.
- 10 The Or Commission Report, p. 26,
- 11 The Committee for the Establishment of Civilian National Service (the Ivri Committee), "Interim Recommendations," Jerusalem, February 2005 [Hebrew], [http://ncs.gov.il/ncs/Documents/hamlatsot\\_ivri.pdf](http://ncs.gov.il/ncs/Documents/hamlatsot_ivri.pdf).
- 12 Nadia Hilu and Idan Haim, "Civilian Service in Arab Society in Israel," Tel Aviv, The Institute for National Security Studies, *Strategic Update* 17, no. 1 (April 2014) [Hebrew].
- 13 Ahmed Khatib and Ilan Biton, "Civilian National Service in Israel: A Survey and Analysis" (Jerusalem: Knesset Center for Research and Information) [Hebrew], <http://www.knesset.gov.il/mmm/data/pdf/m03118.pdf>.
- 14 Jonathan Lis and Jackie Khoury, "The Plesner Committee: Netanyahu Asked Arab MKs to Help Promote Civilian service," *Haaretz*, June 28, 2012 [Hebrew], [www.haaretz.co.il/news/education/1.1743249](http://www.haaretz.co.il/news/education/1.1743249).
- 15 Ibid.
- 16 "Civilian Service in Arab Society," The Abraham Fund, 2012.
- 17 Sammy Smooha, "The Lost Decade of Arab-Jewish Relations: A Review of Index Findings between 2003 and 2009," University of Haifa (distributed to attendees

- of a Knesset meeting and discussion on “The Index: Findings, Conclusions, and Implications,” May 25, 2010) [Hebrew].
- 18 A majority of the Arab population objects to the Zionist character of the state but accepts its Jewish character [Hebrew].
  - 19 See information contained in the Index of Arab-Jewish Relations in Israel for 2008 as presented by Prof. Sammy Smooha at a conference at the University of Haifa, May 18, 2009 [Hebrew].
  - 20 Sammy Smooha, “Still Playing by the Rules: Findings and Conclusions of the Index of Arab-Jewish Relations in Israel 2012,” *Parliament* (Israel Democracy Institute), no. 76 [Hebrew].
  - 21 Sammy Smooha, “The Arab-Israeli Conflict and Arab-Jewish Relations in Israel,” University of Haifa, December, 2014.
  - 22 See Maagar Mochot’s survey from February 2010, conducted on behalf of the Center for Citizen Empowerment and Tel Aviv University’s School of Education for a study conference on “The Youth of Today, Israel’s Face of Tomorrow” [Hebrew], <http://www.news1.co.il/uploadFiles/706295192241669.ppt>; see also Or Kashti, *Haaretz*, March 11, 2010 [Hebrew], <http://www.haaretz.com/hasite/spages/1155708.html>.
  - 23 On this issue, a significant connection was found to exist between the level of religiosity and the views expressed by the youth in question. The percentage of religious teens who indicated their belief that Arabs do not need to be granted the same rights as Jews was double that of secular Jewish teens, standing at 82% and 39% respectively.
  - 24 The impact of the level of religiosity is also visible in the teenagers’ response to the question: Should Israeli Arabs be able to be elected to the Knesset? 82% of the religious youth surveyed answered negatively, versus 47% of the secular youth.
  - 25 The surveys were conducted in cooperation with Prof. Ephraim Yaar and Yasmin Alkalay of Tel Aviv University. See Motti Basok, “Half of Israelis are Proud of the Economy,” *Haaretz*, April 1, 2010 [Hebrew].
  - 26 See the findings of “The Alienation Index, 2015: Jews and Arabs,” conducted by Achva College and published on February 22, 2015 [Hebrew].
  - 27 Amal Jamal, “The Liquidity of the Palestinian Political Lexicon in Israel in the Shadow of the Arab Spring” [Hebrew], *Eretz Acheret*, no. 69, <https://bit.ly/2IX0fH2>.

## Chapter 10: Integrative Review and a Look Forward

- 1 Gil Eyal, *The Disenchantment of the Orient* (Jerusalem: Van Leer and Hakibbutz Hameuchad, 2005) [Hebrew].
- 2 The Or Commission Report, Chapter 6, Section 12.
- 3 Ovadia Ezra, *Justice and Equality: The Need for Affirmative Action* (Tel Aviv: Hakibbutz Hameuchad Red Line Series, 2006), pp. 216–242 [Hebrew].
- 4 See the remarks of Minority Affairs Minister Avishay Braverman during a day-long conference conducted by the Konrad Adenauer Program for Jewish-Arab

- Cooperation and the Moshe Dayan Center for Middle Eastern and African Studies on November 12, 2009, on “Government Policy toward Arab Citizens of Israel: Theory and Practice” [Hebrew]. Also see the prime minister’s remarks on the subject in Tomer Avital, “The State Invested NIS 800 Million in the Economic Development of the Arab Population,” *Calcalist*, March 17, 2010 [Hebrew], <http://www.calcalist.co.il/articles/0,7340,L-3399036,00.html>.
- 5 See Prof. Ruth Gavison, “Reflections on Commissions of Inquiry and the Status of the Arab Minority in Israel,” (lecture, delivered at a conference held at Tel Aviv University under the auspices of the Konrad Adenauer Program for Jewish-Arab Cooperation and the Moshe Dayan Center for Middle Eastern and African Studies, September 24, 2009) [Hebrew], <http://www.metzilah.org.il/webfiles/fck/file/lecture2009.pdf>.
  - 6 See the following words of Prof. Shimon Shamir, a member of the Or Commission, during a lecture delivered at the Herzliya Conference on January 23, 2008: “Commission members clashed with one another according to their different political approaches and ultimately produced a report that completely softened the recommendations of the Or Commission.” Shimon Shamir, “The Advancement and Integration of the Arab Sector: Tasks and Milestones,” *Arab Society in Israel: An Information Compendium* (Abraham Fund, 2013) [Hebrew].
  - 7 In Israel’s current political structure, the preference is typically for the achievement of high visibility short-term goals as opposed to long-term processes that will not necessarily survive the throes of the political system.
  - 8 Eran Razin, “Obstacles to Arab Advancement and Equality in Israel against the Background of the Crisis of the Early 2000s,” in *The Arabs in Israel: Barriers to Equality*, ed. Shlomo Hasson and Michael Karayanni (Jerusalem: Floersheimer Institute for Policy Studies, September 2006) [Hebrew].
  - 9 Michal Belikoff, “Government Resolutions regarding Arab Citizens, Development Plans for Arab Localities, and Monitoring their Implementation, 1999–2005,” in *Sikkuy Report: Government Policy toward Arab Citizens Two Years after the Publication of the Or Commission, 2004–2005*, ed. Ali Heidar (Jerusalem and Haifa: Sikkuy: The Association for the Advancement of Civic Equality, December 2005), pp. 14–41 [Hebrew].
  - 10 Eyad Sanunu, *The Budgetary Needs of Arab Society in 2013: Towards the Formulation of a State Budget for 2013–2014* (Haifa: The Mossawa Center—The Advocacy Center for Arab Citizens in Israel, March 2013) [Hebrew].
  - 11 The Or Commission Report, Chapter 1, Section 58.
  - 12 Elie Rekhess and Doron Navot, “Equal Policy and Arab Politics in Israel: Pragmatic and Paradigmatic Obstacles,” in *Arabs in Israel: Barriers to Equality*, ed. Shlomo Hasson and Michael Karayanni (Jerusalem: Floersheimer Institute for Policy Studies, September 2006), pp. 141–162 [Hebrew].

- 13 Ministry of Industry, Trade, and Labor's Administration for Research and Economy, "The Contribution of Joint Jewish-Minority Industrial Areas to Employment among Minorities," January 2011 [Hebrew].
- 14 The Or Commission Report, Chapter 6, Section 20.
- 15 Nadia Hilu and Idan Haim, "Civilian Service in Arab Society in Israel," The Institute for National Security Studies, *Strategic Update* 17, no. 1 (April 2014) [Hebrew].
- 16 For a more extensive discussion on this issue, see Naif Abu Sharkia, "Organizational Culture in the Arab Local Authorities and the Impact of their Management," in *Politics, Elections, and Municipal Government in Arab and Druze Communities in Israel*, ed. Ephraim Lavie and Arik Rudnitzky (Tel Aviv University: Konrad Adenauer Program for Jewish-Arab Cooperation, 2010), pp. 93–112 [Hebrew].
- 17 Mohanad Mustafa, "Local Elections among the Palestinian Arab Minority in Israel: The Strengthening of the Clans and the Decline of the Parties," in *Municipal Elections in Arab and Druze Settlements (2003)* (Tel Aviv University, 2005) [Hebrew].
- 18 Rassem Khamaisi, "Land Ownership as an Obstacle to Development," in *Arabs in Israel: Barriers to Equality*, ed. Shlomo Hasson and Michael Karayanni (Jerusalem: Floersheimer Institute for Policy Studies, September 2006) [Hebrew].
- 19 Benny Feferman, "Increasing Employment among the Arabs of Israel: Is there a chance of success? Individual Responsibility versus the Responsibility of the Government," a lecture delivered as part of 'Work and Discourse'—Encounters between Jews and Palestinians in the Labor System and Civil Society (2008) [Hebrew].
- 20 Shlomo Hasson and Michael Karayanni, eds., *Arabs in Israel: Barriers to Equality* (Jerusalem: Floersheimer Institute for Policy Studies, September 2006) [Hebrew].
- 21 On feelings of discrimination among Arab employment seekers based on sectoral affiliation, see Shuki Hendeles, "Feelings of Discrimination of Employment Seekers and Employees and Public Impressions on the Matter," (Ministry of Industry, Commerce, and Employment, February 2010) [Hebrew], <http://www.economy.gov.il/Research/Documents/DiscriminationFeelings2010.pdf>.
- 22 On the alienated citizenship of Israeli Arabs, see Yochanan Peres and Eliezer Ben-Raphael, *Proximity and Dispute: Cleavages in Israeli Society* (Tel Aviv: Am Oved, 2006), pp. 52–94 [Hebrew]. See also Ali Haider, ed., "Index of Equality between Jewish and Arab Citizens of Israel—Sikkuy Report, 2008," Sikkuy, Jerusalem, 2009 [Hebrew]; "Human Rights in Israel: A Situation Report, 2009," the Association for Civil Rights in Israel [Hebrew], <http://www.acri.org.il/pdf/tmunat2009.pdf>.
- 23 For more details, see above, Section II, Chapter 3.
- 24 Yoav Borowitz, "The Ministry of Economy is Investigating Beitar Jerusalem for Discrimination against Arabs and is Considering Prosecution," *Haaretz*, July 9, 2015 [Hebrew].
- 25 For more details, see above, Section I, Chapter 4 and Section II, Chapter 8.
- 26 See the following three major speeches of President Reuven Rivlin at the Herzliya Conference, June 7, 2015 [Hebrew], <http://www.president.gov.il/>

ThePresident/Speeches/Pages/news\_070615\_01.aspx; The Givat Haviva Conference, May 28, 2015 [Hebrew], <http://www.givathaviva.org.il/hebrew/info/Givathavivaconference2015rivlin.htm>; and the commemoration ceremony at Kafr Qasim, October 26, 2014 [Hebrew], [https://m.facebook.com/story.php?story\\_fbid=838640206170672&id=128211737213526](https://m.facebook.com/story.php?story_fbid=838640206170672&id=128211737213526).

- 27 The president's call is also consistent with Member of Knesset Benny Begin's (Likud) Bill Basic Law: The State of Israel, according to which Israel is the nation state of the Jewish People; is based on the fundamental principles of liberty, justice, and peace; and upholds equal rights for all its citizens. See Bill Basic Law: The State of Israel, submitted to the Knesset by Knesset Member Benny Begin on June 29, 2015. See also Begin's speech at the University of Haifa on June 25, 2015.
- 28 On the attributes of a "titular state," see [https://en.wikipedia.org/wiki/Titular\\_nation](https://en.wikipedia.org/wiki/Titular_nation).
- 29 Meir Elran and Eran Yashiv, "The Five-Year Plan for the Integration of the Arab Population in Israel: Truly a Quantum Leap?" *INSS Insight*, No. 792 (February 2, 2016) [Hebrew], <http://heb.inss.org.il/index.aspx?id=4354&articleid=11389>.

## Appendixes

- 1 The principles advanced by President Rivlin that are presented in this appendix were taken from three major addresses: President Reuven Rivlin's remarks at the commemoration ceremony at Kafr Qasim, October 26, 2014 [Hebrew], [https://m.facebook.com/story.php?story\\_fbid=838640206170672&id=128211737213526](https://m.facebook.com/story.php?story_fbid=838640206170672&id=128211737213526); President Reuven Rivlin's remarks at the Givat Haviva Conference, May 28, 2015 [Hebrew], <http://www.givathaviva.org.il/hebrew/info/Givathavivaconference2015rivlin.htm>; President Reuven Rivlin's remarks at the Herzliya Conference leading up to his second term in office, June 7, 2015 [Hebrew], [http://www.president.gov.il/ThePresident/Speeches/Pages/news\\_070615\\_01.aspx](http://www.president.gov.il/ThePresident/Speeches/Pages/news_070615_01.aspx).
- 2 From H CJ 11280/02, *Central Elections Committee for the Sixteenth Knesset v. MK Ahmad Tibi et al.*, PD 57(iv)1 (see paragraph 12 of Chief Justice Barak's opinion) [Hebrew].
- 3 From H CJ 528/88, *Avitan v. Israel Lands Administration*, PD 43(4) 297 [Hebrew]. This ruling concerns the allocation of land to the settlement of Segev-Shalom for Bedouin alone under a policy of affirmative action (see paragraph 31 of Chief Justice Barak's opinion).
- 4 From the HCJ's Arab Signs Ruling: H CJ 4112/99 *Adalah et al. v. The Municipality of Tel Aviv-Jaffa et al.*, PD 56(v) (see paragraph 25 of Chief Justice Barak's opinion).
- 5 H CJ 11280/02, *Central Elections Committee for the Sixteenth Knesset v. MK Ahmad Tibi et al.*, PD 57(iv)1 (paragraph 13 of Chief Justice Barak's opinion) [Hebrew].
- 6 See the HCJ Arab Signs Ruling: H CJ 4112/99, *Adalah et al. v. The Municipality of Tel Aviv-Jaffa et al.*, PD 56(v) (paragraphs 48–49, 52, and 54 of Justice Cheshin's minority opinion).
- 7 Ibid.

- 8 Ibid., paragraph 57 of Justice Cheshin's opinion.
- 9 Ibid., paragraphs 48–49, 52, and 54 of Justice Cheshin's minority opinion.
- 10 Yitzhak Zamir, "Equality of Rights for Arabs in Israel," *Mishpat Umimshal* 9 (2005): 28 [Hebrew]; Yitzhak Zamir, "Equality of Rights for Arabs in Israel," in *The Arabs of Israel: The Status of the Arab Minority in the Jewish State* ed. Elie Rekhess and Sarah Ozacky-Lazar (Tel Aviv: Dayan Center, 2005), p. 59 [Hebrew].
- 11 Ibid., p. 27.
- 12 Ibid., p. 28.
- 13 Yitzhak Zamir, "Equality of Rights for Arabs in Israel."
- 14 See Dalia Dorner's lecture at the Jaffa Conference in January 2011, "An Interview with Former Justice Dalia Dorner," University of Haifa, *Din Udvarim* 1 (2005): 15–63 (date of interview: June 3, 2004): "We have not fulfilled the Declaration of Independence's promise of equal rights," <https://bit.ly/2EKnt0B> [Hebrew]; Ala Mahajna, "The Arab Language and the Indigeneity of Arabs in Israel," *Adalah Newsletter* 50 (July 2008), <http://www.adalah.org/newsletter/eng/jul08/alaa.doc>.
- 15 A theoretical document composed by a team of Jewish Israeli academics headed by Yitzhak Reiter operating under the auspices of the Jerusalem Institute for Israel Studies. Members of this group included: Dr. Sarah Ozacky-Lazar, Prof. Yaacov Bar-Siman-Tov, Dr. Abigail Jacobson, Dr. Alex Yakobson, Dr. Hillel Cohen, Dr. Ephraim Lavie, Dr. Kobi Michael, Prof. Frances Raday, and Dan Patir. See "Toward Inclusive Israeli Citizenship: a New Theoretical Framework for Jewish-Arab Relations in Israel," (Jerusalem Institute for Israel Studies, 2011), <http://jiis.org.il/upload/citizenship.pdf> [Hebrew].
- 16 See the remarks of Prof. Asher Susser during a panel of the Eighth Annual Conference of the Institute for National Security Studies: "Israel Facing Stormy Surroundings," February 16–17, 2015 [Hebrew].
- 17 See Sammy Smootha "Collective Rights: A General Overview," lecture at the Jaffa Conference, January 27, 2011, and "Jews and Arabs in Israel: from a State of Deep Division toward a Shared Life," lecture, Jaffa Conference, February 26, 2015. Also see Sammy Smootha, *Still Playing by the Rules: The Index of Arab-Jewish Relations in Israel 2012* (Jerusalem: Israel Democracy Institute and University of Haifa, 2013), pp. 22–23 [Hebrew].
- 18 For a more expansive discussion, see Ruth Gavison, "Meaning and Implications of the Jewishness of Israel: Israel as a Jewish and Democratic State," in *The Jewishness of Israel* ed. Aviezer Ravitzky and Yedidia Stern (Jerusalem: Israel Democracy Institute, 2007) [Hebrew], <https://ruthgavison.files.wordpress.com/2015/10/meaning-and-implications-of-the-jewishness-of-israel-2007.pdf>; Ruth Gavison, "The Jewish State: an Ethical Justification and its Desired Image," *Tchelet* 13 (2002) [Hebrew], <http://www.daat.ac.il/he-il/ezrachut/democracy-yahadut/gabizon-hamedina.htm>.

- 19 Ruth Gavison, "The Constitutional Grounding of the Vision of the State: Recommendations for the Minister of Justice," November 2014 [Hebrew]. Also see the extensive discussion of the Nationality Law above, Section II, Chapter 7.
- 20 See the paragraph on "Territorial and Population Exchanges" in the Yisrael Beytenu party platform [Hebrew], <https://bit.ly/2vfCV5o>. On a practical level, the plan would mean that an Israeli Arab who chooses to keep his home and his land in such areas would lose his Israeli citizenship and find himself living within the borders of Palestine, whereas an Israeli Arab who chooses to maintain his allegiance to the state of Israel will need to forfeit his home and his land and relocate to a new place of settlement within the borders of the state.
- 21 See Moshe Arens, "Israeli Citizenship for Palestinians," *Haaretz*, June 2, 2010 [Hebrew], <http://www.haaretz.co.il/opinions/1.120470>.
- 22 See the political platform of the Beit HaYehudi party [Hebrew] at <http://www.globes.co.il/news/article.aspx?did=1001012128>.
- 23 Amal Jamal, "The Political Ethos of Palestinian Citizens of Israel: Critical Reading in the Future Vision Documents," *Israel Studies Forum* 23, no. 2 (Winter 2008): 3; Elie Rekhess, "The Evolvement of an Arab-Palestinian National Minority in Israel," *Israel Studies* 12, no. 3 (2007): 3; Amal Jamal, "Collective Rights for Original Minorities: Theoretical and Normative Aspects," in *The Arabs of Israel: The Status of the Arab Minority in the Jewish State* ed. Elie Rekhess and Sarah Ozacky-Lazar (Tel Aviv University, Konrad Adenauer Program for Jewish-Arab Cooperation, 2005), pp. 27–44 [Hebrew]; Amal Jamal, "On the Morality of Arab Collective Rights in Israel," *Adalah Newsletter* (digital version) 12 (April 2005) [Hebrew], <http://www.adalah.org/newsletter/heb/apr05/ar2.pdf>.
- 24 For a detailed discussion and analysis of the Vision Documents, see Sarah Ozacky-Lazar and Mustafa Kabha, *Between Vision and Reality: The Vision Documents of the Arabs in Israel, 2006–2007* (Jerusalem: The Citizens' Accord Forum between Jews and Arabs in Israel, 2008) [Hebrew].
- 25 Platform of the Joint List for the Twentieth Knesset [Hebrew], <http://hadash.org.il/matzahadash/>.

The relations of the state and the Jewish majority with the Arab-Palestinian society directly concern Israel's national security. Like the Commission of Inquiry into the Clashes between Security Forces and Israeli Citizens in October 2000 (Or Commission), so too, the president of Israel, Reuven Rivlin, deems the advancement and integration of Arab society in the social and economic life of the state—on the basis of full and equal citizenship—as an interest of utmost national importance to Israel's social, economic, and moral fortitude.

This book scrutinizes the reality of life in Arab society over the years since the publication of the recommendations of the Or Commission. In the conclusion, the authors find that Arab society shows a desire to integrate within the social and economic life in Israel, and that there is a real chance of narrowing gaps and engaging them in advanced professions. The study's recommendations are addressed primarily to the state's leadership: they must decide that this is a matter of national importance and reach an historic decision to forge a long-range policy to fortify the Arab society, together with its representatives, on a basis of equality but without any political or cultural exclusion.

The purpose of this book is to serve as a catalyst for public discourse and as a tool for decision makers and policy shapers.

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**“This book’s discussions begin with quotes from the Or Commission Report, using it to characterize and analyze its findings and to derive the lessons to be learned. This book also incorporates, as an additional frame of reference, the remarks of Israel’s President Reuven Rivlin regarding the social sectors that exist within the Israeli population, which serve as an umbrella for the book’s pronouncements as a whole— excellent research.”**

– Prof. Shimon Shamir, member of the Commission of Inquiry into the Clashes between Security Forces and Israeli Citizens (Or Commission), Department of Middle Eastern and African History, Tel Aviv University

**“As for the issue of the integration and equality of the Palestinian Arab minority in Israel, the time has come for historic decisions to be made, while formulating an overall strategic conception for implementing these goals in practice. At this point in time, nothing less will do. As asserted in this book’s conclusion, the time has come for a conceptual change on the national level.”**

– Prof. Asher Susser, Department of Middle Eastern and African History, Tel Aviv University

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