



مركز مساواة

Mossawa Center

The Palestinian Arab Citizens of Israel: Status, Opportunities and Challenges for an Israeli-Palestinian Peace

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I. PALESTINIAN ARAB CITIZENS IN ISRAEL – Terminology

This report focuses on the Arab community in Israel. The Mossawa Center identifies the community as “Palestinian Arab citizens of Israel,” “Arab citizens of Israel” and the “Palestinian community in Israel.” Although not all Israeli citizens of Arab origin identify as Palestinian, the Arab community in Israel, including leading civil society organizations and political parties, increasingly use this terminology.¹

The use of these terms both reflects the community’s self-identification as part of the Palestinian people, and citizens of the state of Israel. The Israeli government refers to this community as, “Arab Israelis” or “Israeli Arabs,” “Arab sector,” “non Jewish” or “minorities” (despite the absence of such a legally-protected status), or as non-Jews.

While identified as part of a wider Arab world, the Arab Palestinian citizens of Israel represent a national (Palestinian), ethnic / racial (Arab), linguistic (Arabic) and religious (Muslim, Christian and Druze) minority in Israel.² Moreover, the Palestinian Arab citizens of Israel are members of the Palestinian peoples who were dispersed in 1948, with the establishment of the State of Israel they became citizens of the state. As such, they share deep familial, national, religious, social and cultural ties with Palestinians in the Occupied Territories of the West Bank, Gaza and East Jerusalem and beyond. As citizens of the state of Israel and as part of the Palestinian people they have unique status.

¹See e.g., ISRAEL DEMOCRATIC INSTITUTE, THE 2004 ISRAEL DEMOCRACY INDEX AUDITING ISRAELI DEMOCRACY ATTITUDES OF YOUTH 30 (2004); As’ad Ghanem and Sarah Ozacky-Lazar, *The Status of the Palestinians in Israel in an Era of Peace: Part of the Problem but Not Part of Solution*, in THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE 276 (ed. Alexander Bligh) (2003).

² Yousef Jabareen, *Constitutional Protection of Minorities in Comparative Perspective: Palestinians in Israel and African-Americans in the United States* (2000)(unpublished doctoral dissertation, Georgetown University Law Center) (on file with author).

II. INTRODUCTION

As citizens of the State of Israel and as an integral part of the Palestinian people, the Palestinian community in Israel* is uniquely positioned to contribute to a just, human rights-based sustainable resolution of the conflict between Israel, the Palestinians and the wider Arab world.

The Palestinian Arab community, about 20% of the Israeli population and 10% of the Palestinian people,³ is a potentially formidable force for coexistence between Palestinians and Israeli Jews. While community members preserve their Arabic language and identity, they are also fluent in Hebrew, the states' first official language. The community, constantly exposed to the dominant Jewish Israeli society and culture, adeptly navigates and understands Israeli institutions, and political, social and economic systems.

Despite a growing trend of racism and systemic and institutional discrimination against the community,⁴ the overwhelming majority of Palestinian Arabs in Israel wish to remain citizens of Israel,⁵ and believe in future friendly relations between Jews and Arabs in Israel.⁶ As the community forms part of the Palestinian nation, it is often seen as part of the “problem;” but not as an integral part of the solution. As stakeholders in the resolution of the Israeli-Arab conflict whose status and future will be affected by any solution to the conflict, the Palestinian Arab citizens of Israel seek to be included as active participants, mediators, and partners in the resolution and reconciliation process.

This report aims to draw the attention of the local and international communities to the role of the Palestinian community in Israel in shaping and implementing the agenda for a peaceful resolution of the Israeli-Arab conflict, which includes the concerns of Palestinians in the Occupied Palestinian Territories (OPT) and Palestinian Arab citizens of the State of Israel.

To date, the Palestinian community in Israel has been largely excluded from playing an active role in the Palestinian-Israeli negotiations. None of the peace frameworks, from the 1993 Oslo Accords to the unofficial 2003 Geneva Initiative addressed the community's status in and concerns about the emerging two-state solution. Both Israeli and Palestinian officials have marginalized and dismissed the community's political and social interests and contributions. The recently implemented unilateral Israeli plan to pull out of the Gaza strip, known as the “disengagement plan,” likewise failed to consider its effects on the Palestinian populations, including in Israel. Groups of the Jewish settlers' from the Gaza Strip are currently being re-

* Please see Part I: Terminology, of this report.

³ Central Bureau of Statistics, Statistical Abstract of Israel 2004, Table 2.1, *available at* http://www1.cbs.gov.il/shnaton55/st02_01.pdf. Arab citizens constitute 1.3 million versus 5.4 Jews and other groups. *Id.* In 2002, there were 9.3 million Palestinians worldwide. Palestinian Central Bureau of Statistics, Press Release (Jan. 8, 2003), *available at* <http://www.pcbs.org>.

⁴ Mossawa Center, Anti-Racism Program, *at* http://www.mossawacenter.org/en/projects/anti_racism.html (last visited March 28, 2005). Legal and advocacy NGOs cite at least 17 laws which directly discriminate against the Arab citizens of Israel. See Legal Status chapter of this report.

⁵ Ghanem & Ozacky-Lazar, *supra* note 1, at 276.

⁶ Summary of studies by Sammy Smootha, Professor in the Sociology and Anthropology Department, Haifa University, Israel (July 11, 2004) (in Hebrew) *available at* www.sikkuy.org.il/modiin/tzohar1/11_7_04.html.

settled primarily in the Naqab (Negev) area further displacing and disadvantaging the resident indigenous Bedouin Arab population, whose poor economic and social conditions are the worst in the country.

Palestinian Arab citizens of Israel enthusiastically support the peace processes. They support both the establishment of a Palestinian state alongside Israel, and the struggle for equitable status as citizens in Israel, with national and collective rights. The Palestinian community can exert some influence on Israeli politics, as shown by its voting patterns in national elections, which reflect the community's view of Israeli policy toward its Arab neighbors in the region. From 1992 to 1995, Palestinian Arab community representatives in the Knesset provided Prime Minister Yitzhak Rabin with the majority necessary to advance the Oslo peace process. In 1999, the overwhelming support of Arab citizens took Ehud Barak's peace platform to victory. In contrast, community election boycotts motivated by outrage at Israeli policies of excessive force and ongoing occupation have resulted in the rise of the Likud party candidates Binyamin Netanyahu and Ariel Sharon, and the defeat of pro-peace candidates, such as Shimon Peres, in the 1996, 2001 and 2003 elections.⁷

Parts III this report outlines the historical background of the Palestinian Arab community in Israel. Part IV highlights the current social, economic, political and legal status of the Palestinian Arab community in Israel.

Part V addresses:

- 1) the exclusion of the Palestinian minority in Israel from participating in the resolution of the Israeli-Arab conflict;
- 2) the relations between the Palestinian Arab community in Israel the Jewish majority and Israeli government;
- 3) the relations of the community with Palestinians in West bank and Gaza; and
- 4) the relations with the wider Arab world.

Finally, based on the initial overview, Part VI provides recommendations to:

- 1) improve the human rights situation of the Palestinian minority in Israel
- 2) strengthen a dialogue with the Jewish majority in Israel, and
- 3) highlight the unique position of the Palestinian minority in the resolution of the Middle East conflict, and create stability in the region.

⁷ The 1996 election boycott contributed to the defeat of Shimon Peres by Binyamin Netanyahu and sought to protest the Israeli army shelling of Qana in Lebanon, that resulted in substantial civilian casualties. Election boycotts in 2001 and 2003 rallied against the killing of 13 Arab citizens by police during October 2000 demonstrations in solidarity with the *al-Aqsa intifada* against the ongoing repressive occupation of Palestinians in the OPT.

III. HISTORICAL BACKGROUND

Following a history of colonial rule by a succession of foreign forces ending with Ottoman control and the British Mandate, the newly formed United Nations General Assembly voted in 1947 to partition Mandatory Palestine into two states, one Jewish and one Arab, with special international administration of Jerusalem.¹ The partition plan recognized the self-determination rights of both nations, while preserving the right of existing populations to remain on their lands, regardless of the envisioned new borders. Amidst tensions between Jews and Arabs in the area, Israel declared statehood in May 1948, which led to continuing fighting.

In what became known to the Palestinians as “al-Nakba,” the catastrophe, the vast majority of the 940,000 Palestinians who lived in what became Israel fled or were expelled from their homes. The displacement and dispossession resulted in 780,000 refugees.² The 160,000 Palestinians who remained were given citizenship status in the newly-established State of Israel,³ whose borders were defined by the 1949 UN-brokered armistice lines.⁴

At the outcome of the war, the majority Palestinian population has been reduced to a debilitated and persecuted minority. More than 480 Arab villages were destroyed,⁵ a quarter of the remaining Arab population was transformed to internal refugees,⁶ and families were divided by newly defined international borders.⁷ The 1967 Israeli-Arab war created a second wave of displacement with more than 500,000 Palestinians, nearly half of whom were already refugees, uprooted again.⁸

Today, the 1.3 million Palestinian Arab citizens of Israel⁹ live in three concentrated regions in Israel, the Galilee (a rural area in northern Israel), the Triangle (an area in central Israel adjacent to the border with the West Bank) and the Naqab (Negev) (arid lands in the south). Israel includes between 228,000 and 249,270 Palestinian Arab permanent residents¹⁰ of

¹ United Nations General Assembly Resolution 181, UN Doc No. A/RES/181(II)(A+B), November 29, 1947.

² As'ad Ghanem and Sarah Ozacky-Lazar, *The Status of the Palestinians in Israel in an Era of Peace* "Part of the problem but not part of solution," in *THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE* 263 (ed. Alexander Bligh, 2003).

³ *Id.* at 264.

⁴ See e.g., Israeli Ministry of Foreign Affairs, Fact about Israel, Armistice line 1949, available at <http://www.mfa.gov.il/MFA/Facts+About+Israel/Israel+in+Maps/1949-1967+Armistice+Lines.htm>.

⁵ See ALL THAT REMAINS: THE PALESTINIAN VILLAGES OCCUPIED AND DEPOPULATED BY ISRAEL IN 1948 (Walid Khaldi ed., Institute for Palestine Studies 1992). Other accounts report that about 531 communities were destroyed. See Palestinian Central Bureau of Statistics, *Palestinian in Israel*, at http://www.pcbs.org/abs_pal/abs_pal4/palestinian.htm.

⁶ Mustafa Kabha, *The Conspiracy and the Victim*, in *KAFR KASSEM: MYTH AND HISTORY* 106 (Ruvik Rosenthal ed., 2000).

⁷ As'ad & Ozacky-Lazar, *supra* note 2, at 263.

⁸ United Nations, *Palestine Refugees*, at 8 at <http://www.un.org/Depts/dpi/palestine/ch10.pdf>.

⁹ Arab citizens constitute 1.3 million versus 5.4 Jews and other groups. Central Bureau of Statistics (CBS), *Statistical Abstract of Israel 2004*, Table 2.1, available at http://www1.cbs.gov.il/shnaton55/st02_01.pdf.

¹⁰ Under the Entry into Israel Law of 1952, Palestinians living in annexed East Jerusalem are permanent residents. The immigration law permits their travel as tourists and stay as immigrants, granting authorities wide discretion to terminate their status. See B'tselem and Hamoked, *Forbidden Families: Family Unification and Child Registration in East Jerusalem* (January 2004), at 5.

annexed East Jerusalem as part of the total Arab population in Israel.¹¹ About 63% of the community lives in villages, including 8% in “unrecognized” villages in the Naqab and Galilee, 29% live in small municipalities, mostly in the Triangle area, and 8% live in mixed Arab-Jewish urban centers.¹² Religious affiliation is primarily Sunni Muslim (1.1 million) with Christians numbering 113,000 and Druze 106,000.¹³

1. Land Grab and Population Displacement

Relocation of populations and confiscation of land came to characterize the relationship of the state toward its Palestinian Arab citizens. Commonly, Arab-owned lands are classified as military or security zones and as such come under the sole control of the government. Arabs who remained in Israel after 1948 lost between 40% and 60% of their lands.¹⁴ From 1948-1975, over 800,000 dunams¹⁵ (177,000 acres) were taken from Palestinian Arab citizens and used for the creation of sixty new Jewish outposts.¹⁶ Whereas prior to 1948, when the Jewish community owned less than 10% of land in Israel, today 93% of all land is under direct state control,¹⁷ plus an additional 3% owned by the semi-governmental body, the Jewish National Fund. At present, Palestinian Arab citizens of Israel own 3.5% of the land and are in effect excluded from leasing or purchasing 80% of land in the country.¹⁸

The state also controls the management of Muslim religious properties (*waqf*), a system held over from the Ottoman rule, in which the Muslim Ottomans handled Muslim properties in the area. About 249 document places of worship, such as mosques, churches and cemeteries were destroyed or converted to other uses.¹⁹

The widely-documented cases of Iqrith and Bir'em, Christian villages near the Lebanese

¹¹ According to 2004 Israeli CBS data, 464,000 “Jews and others” and 228,000 Arabs live in Jerusalem, including East Jerusalem. CBS, *The Population of Israel* (released April 25, 2004), at http://www.cbs.gov.il/hodaot2004/01_04_98e.htm#_ftnref2. According to the Palestinian Bureau of Statistics, 249,270 Palestinians lived in Israeli-annexed Jerusalem in 2003. PASSIA, *Palestine Facts* (2003) at http://www.passia.org/palestine_facts/pdf/pdf2003/sections1/4-population.doc.

¹² According to MADA, 55% of Palestinians in Israel live in more than 100 villages and 8% live in over 40 unrecognized villages. Arab Center for Applied Social Research (MADA), *The Palestinians in Israel*, available at <http://www.mada-research.org/about/palsinIsrael.shtml> (last visited April 3, 2005).

¹³ Israeli Ministry of Foreign Affairs, *Minority Communities* (February 1, 2004) at <http://www.mfa.gov.il/MFA/Facts+About+Israel/People/SOCIETY-%20Minority%20Communities>.

¹⁴ Alexandre (Sandy) Kedar, *The Legal Transformation of Ethnic Geography: Israeli Law and the Palestinian Landholder 1948-1967*, 33 NYU J. INT'L L. & POL 933, 948 (2000) available at <http://www.nyu.edu/pubs/jilp/main/issues/33/pdf/33x.pdf>.

¹⁵ A dunam is a land measurement unit. One dunam equals 0.22 acres or 1,000 square meters.

¹⁶ See Yousef Jabareen and Hubert Law-Yona, *Planning the Arab Towns in Israel: The Case of Land Allocations for Public Purposes* (Technion Institute, 1998) cited in Mossawa Center, *Report on the Social, Economic and Political Status of Arab Citizens of Israel* 24 (2001).

¹⁷ Arab Association for Human Rights, *Land and Planning Policy in Israel*, at <http://www.arabhra.org/factsheets/factsheet2.htm> (last visited March 31, 2005).

¹⁸ AFTER THE RIFT: NEW DIRECTIONS FOR GOVERNMENT POLICY TOWARDS THE ARAB POPULATION IN ISRAEL 17 (Rabinowitz et al. eds., 2000)

¹⁹ Arab Association of Human Rights (HRA), *Sanctity Denied* (2004), at Appendix B, available at http://www.arabhra.org/publications/reports/PDF/sanctitydenied_english.pdf; Al Aqsa Association for the preservation of Islamic Consecrated property (Waqf), *Background*, available at http://www.aqsa-mubarak.org/?cat_id=130&page_id=503. Azmi Bishara, *The Arab Israeli: Review of the divided political discourse in THE JEWISH-ARAB RIFT IN ISRAEL: A READER* 39 (Ruth Gavison & Dafna Hacker eds., 2000) (in Hebrew).

border, illustrate the pattern of population expulsion and land confiscation. In November 1948, village residents were asked to temporarily leave their homes for their own safety while the Israeli military carried out operations in the area. Despite explicit guarantees by the then Minister of Minorities and the Regional Military Governor that residents would be allowed to return and by subsequent High Court rulings in favor of the petitioning villagers, the government officially expropriated the village lands in 1953 and destroyed the remaining homes.²⁰ The residents of these two villages remain internally displaced to this day, and constitute part of the 25% of Palestinian living as refugees in their homeland.

To legalize land transfer, the state passed a host of laws, which had either a disproportionate or solely adverse impact on the Arab community in Israel.²¹ The 1950 Absentee Property Law states that property held by Palestinians who either fled or were expelled from their lands during the 1948 war automatically reverts to state property. Internal Palestinian refugees in Israel are likewise subjected to this law as “present absentees,” so-called because the state considers them present in Israel but absent from their lands. Early in 2005, controversy erupted over a secret cabinet decision to extend the application of this 55-year old law to seize the lands of Palestinians in East Jerusalem, despite subsequent changes in the law which made it inapplicable to East Jerusalem lands occupied in 1967 and later annexed.²²

The Knesset-approved unilateral pullout (“disengagement”) from the Gaza Strip and four settlements in the northern West Bank is currently re-settling groups of Jewish settlers from the Occupied Palestinian Territories in the Galilee and the Naqab at the expense of Arab populations whose residence in the area pre-dates the establishment of the state of Israel. The new plan to “Judaize the Negev” allocates plots of land and grants to Jews only, often by confiscating Arab lands, and devotes development resources to Jewish areas only. Yet the 25% of Arab residents who live in unrecognized villages in the Naqab continue to receive no government attention to their basic human development needs. Consequently, the plan reinforces an Israeli government tradition of stark discrimination against Arab villages and towns in the Galilee and the Naqab that promotes inequality.²³

²⁰ Arab Association for Human Rights, Bir'em and Iqrit: The Internally Displaced, (Dec. 20, 1999) available at <http://www.arabhra.org/publications/shortreports/>.

²¹ Legislative measures include the Lands Administration Law (1960), the National Planning and Building Law (1965) and the Agricultural Settlement (Restrictions on the Use of Agricultural Land and Water) Law (1967).

²² See e.g., Meron Rapaport, *Land Lords*, Ha'aretz, Jan. 20, 2005 (electronic edition). FIDH, Israel: annexation of East Jerusalem land under secret law? (Jan. 26, 2005) available at http://www.fidh.org/article.php3?id_article=2185.

²³ Pursuant to a 2003 government decision, Bedouins in the Naqab have been evicted from their lands (via orders for eviction orders and house demolitions) and settled in townships characterized by extremely poor economic and social infrastructure, where they are unable to resume their pastoral lifestyle on which they subsist. Other measures encourage Jewish settlement in the Naqab, including creating a military intelligence base and creating a high-tech park in the area, and substantial land leasing discounts for released soldiers, all of which effectively exclude members of the Arab population. Mossawa Center, *The Plan to Judaize the Naqab and the Implications on the Status of the Arab citizens of the Naqab* (April 2005).

2. 1948-1966: Palestinians in Israel placed under military rule

Palestinian Arab citizens of Israel have been consistently subjected to policies premised on the perception that they constitute “security risks” with “suspect” loyalty to the state.²⁴ The first Knesset (Israeli parliament) voted to extend the 1945 British military rule, previously in effect against Jews and Arabs in Palestine,²⁵ over the Palestinian minority only.

The military administration was characterized by severe repressive measures on speech, political association, property ownership and travel and featured discrimination in every sphere of life. Authorized by broad military regulations, military governors imposed closures, required exit and entry permits, enacted curfews, detained and placed individuals under military custody, imposed house arrests of indefinite length, seized property, and deported individuals with no recourse to appeal.

In a historically defining moment for Palestinians in Israel, in 1956, Israeli military border police shot and killed 49 residents, including women and children, of the village of Kafr Kassem. Most of the victims were farmers returning from work in the fields, unaware of a curfew imposed suddenly on the village.²⁶ While the officers responsible for the shooting were prosecuted and sentenced in an important precedent-setting trial, and symbolic compensation was given to victims’ families, the incident failed to make a lasting impression on the consciousness of the Jewish majority, whether in official history textbooks or via an official government apology.²⁷ In the Palestinian collective memory the phrase “*Shadmi qirsh*” (the Shadmi “penny” in Arabic) was coined after Yisaskar Shadmi, one of the main military personnel behind the massacre, was fined a symbolic penny for acting outside his authority. The phrase has come to symbolize the Palestinian Arab community’s feeling of being devalued and marginalized by the state.²⁸

3. Post-1967: Continued exclusion and systemic discrimination

Although the military administration ended in 1966, its repressive impact on the economic, social and political development of Palestinians in Israel is still apparent. For Arab citizens, the period between 1967 and the present has been characterized by increased political

²⁴ Muhammad Amara, *The Collective Identity of the Arabs in Israel in an Era of Peace*, in *THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE* 250-251 (ed. Alexander Bligh, 2003).

²⁵ Youssef Jabareen, *Constitutional Protection of Minorities in Comparative Perspective: Palestinians in Israel and African-Americans in the United States*, at 106, n.7-8 (2000)(unpublished doctoral dissertation, Georgetown University Law Center) (on file with author). Jewish lawyers loudly condemned the Military ordinances prior to the establishment of Israel. Among the rights curtailed were declaring and imposing curfews, restricting freedom of movement, prohibiting political organizing, limiting job opportunities, and censoring publications and the distribution of written materials. See, IAN LUSTIK, *ARABS IN THE JEWISH STATE: ISRAEL'S CONTROL OF A NATIONAL MINORITY* (1980).

²⁶ Adi Parush, Criticisms of the “black flag” test, at 131, in *Kafr Kassem: Myth and History* (ed. Ruvik Rosenthal, 2000) (in Hebrew)

²⁷ Letter from Sheikh Abdallah Nimer Darwish, Head of the Islamic Movement to Prime Minister Yitzkah Rabin (Oct. 22, 1992) in *KAFR KASSEM: MYTH AND HISTORY* 241-242 (ed. Ruvik Rosenthal, 2000) (in Hebrew); Merav Mimon-Shnitzer, *Between Shock and Forgetting* in *KAFR KASSEM*, *supra* at 79-80.

²⁸ Mimon-Shnitzer, *supra* note 28, at 80. Telephone interview with Nabila Espanioly, Director, Al-Tufula: Pedagogical Center and Multipurpose Women’s Center (May 15, 2005).

participation and challenges to discriminatory state policies, combined with growing demands for equality and the resolution of the greater Israeli- Palestinian conflict.²⁹

While 1967 marked the end of military rule over Arab citizens of Israel, it was also the year in which Israel started the occupation of seized lands, including the Golan Heights (from Syria), the West Bank and East Jerusalem (from Jordan) and the Gaza strip and Sinai desert (from Egypt).

In 1976, in an expression of community frustrations, Palestinian Arab citizens called the first general strike that developed into mass demonstrations against large-scale land seizure as part of a plan to “Judaize the Galilee.” Protests in the municipality of Sakhnin turned violent and resulted in police and military forces shooting dead six Palestinian Arab citizens from several villages. The Palestinian Arab community in Israel commemorates the tragic event in an annual day of protest on March 30, known as Land Day (or *Yom Al-Ard*, in Arabic).³⁰

Land Day signaled the beginning of a new era of political awareness within the Palestinian community in Israel, and gained it respectful recognition in the Arab world and among Palestinians outside Israel. Moreover, the event marked a shift from political support of progressive Zionist parties to support of independent Arab parties in Israel.

Following the 1980s Israeli military incursions into Lebanon, designed to drive out Yasser Arafat’s Palestinian Liberation Organization (PLO), the Palestinian community in Israel increasingly began to bring its voice to the Palestinian struggle. These events also solidified the desire of Palestinians to liberate themselves from their dispossession. The 1987 *intifada*, a grassroots popular uprising that erupted in the Occupied Palestinian Territories, galvanized all Palestinians in their rejection of Israeli occupation, as well as their dissatisfaction with the ability of the exiled Palestinian leadership to represent their needs.

However, their solidarity with Palestinians living under occupation was largely limited to moral, financial and political support.³¹ Many in the community considered the PLO as the only legitimate representative of the interests of the Palestinian people. This perception would change during the 1990s Oslo peace negotiations, when Arafat and the PLO neglected to address issues of concern to the Palestinian community in Israel, such as the rights of refugees, including internal refugees.³²

Civil society activity and organized political participation in social and public life began a steep resurgence in the late 1970s and 1990s.³³ New forms of political organizations, such as the Democratic Front, created in 1976, followed by the emergence of independent Arab political parties, such as the Democratic Arab Party, (which later joined with the Islamic

²⁹ See generally, AS’AD GHANEM, *THE PALESTINIAN-ARAB MINORITY IN ISRAEL, 1948-2000* (2001).

³⁰ MOSSAWA CENTER, *REPORT ON THE SOCIAL, ECONOMIC AND POLITICAL STATUS OF ARAB CITIZENS OF ISRAEL* (2001), at 24.

³¹ See e.g., The Institute for Peace Research, *A Survey of Political and National Attitudes of the Arabs in Israel October-November 2002* (Sarah Ozacky-Lazar and As’ad Ghanem eds.), at 7

³² Mustafa Kabha, *The Conspiracy and the Victim in KAFR KASSEM*, *supra* note 6, at 106; See Ghanem & Lazar, *supra* note 2, at 265.

³³ International Crisis Group (ICG), *Identity Crisis: Israel and Its Arab Citizens* (March 4, 2004), at 6.

Movement to form the United Arab List) and the National Democratic Assembly (Balad) all gained popularity.³⁴ New advocacy and legal NGOs launched landmark legal cases and political petitions seeking to improve the status of the Arab minority in Israel in areas ranging from equal access to education, healthcare and employment to land rights.³⁵ Community bodies, such as the High Follow-Up Committee for Arabs Citizens in Israel, and the earlier-formed National Council of Arab Local Authorities, ushered in an era of activism and gave an outlet for opposition voices.

Liaising between the community and the state, the High Follow-Up Committee, which consists of political party representatives, heads of local authorities and major community organizations, has become a leading force in shaping, coordinating and advocating the national interests of the Palestinian community in Israel and addressing the Israeli-Palestinian conflict.³⁶

The signing of the 1993 Oslo Accords, which called for mutual recognition and a permanent status settlement for the Palestinians, sparked a short-lived bubble of optimism about improved conditions for the Palestinian community in Israel. The 1995 assassination of Prime Minister Yitzhak Rabin, one of Oslo's chief architects whose term marked a zenith in Arab-Jewish relations in Israel, was followed by the 1996 electoral victory of the hawkish Likud party headed by Binyamin Netanyahu.³⁷ Once in office, Netanyahu swiftly voided the Rabin administration's initiative to include the status of Arab villages as a national priority.³⁸

In 1999, the Arab community mobilized and overwhelmingly (95%) voted for the Labor party led by Ehud Barak, contributing to its election win.³⁹ However, by October 2000 a second *intifada* erupted, sparked by failed implementations of peace promises, ongoing Israeli aggression in the OPT, and the controversial visit by Likud party leader Ariel Sharon to the Temple Mount (*al-Haram al-Sharif*), the site of the venerated Dome of the Rock and *al-Aqsa* mosque.

4. 2000-Present: October 2000 killing of Arab citizens, meager state response, growing inequality

In early October 2000, Palestinian Arab citizens of Israel staged mass demonstrations in solidarity with the struggle against the ongoing repressive occupation of Palestinians in the OPT and the killing of Palestinians on the Temple Mount compound (*al-Haram al-Sharif*) following the visit of Sharon to the site on September 28, 2000.⁴⁰ Initiated as a general strike call by the High Follow-up Committee for the Arab Citizens, the demonstrations and their aftermath came to symbolize Arab citizens' increased frustration with persistent oppression and systematic discrimination against their community in Israel. In violation of Israeli law and

³⁴ Part IV, Chapter 1 on Political Participation of this report.

³⁵ See Part IV, Chapter 1 on Legal Status and Chapter 3 on Political Participation, of this report.

³⁶ ICG, *supra* note 33, at 5-6.

³⁷ The 1996 election boycott contributed to the defeat of Peres by Binyamin Netanyahu and aimed to protest the Israeli army shelling of Qana, Lebanon that resulted in substantial civilian casualties.

³⁸ Jafar Farah, Director Mossawa Center, *quoted in* ICG, *supra* note 33, at 7.

³⁹ *Id.* at 8.

⁴⁰ Indictment by the High Follow-up Committee for the Arab Citizens, *The Arab citizens of the State of Israel v. The State of Israel*, (Jan. 21, 2001) (submitted before the official commission of inquiry).

police regulations, security forces used live ammunition, in addition to rubber bullets and tear gas, against the protestors resulting in the deaths of 12 Arab Palestinian citizens and one resident of the Gaza Strip visiting Um al-Fahem.⁴¹ An additional Palestinian Arab citizen was killed in Qalqilya, in the West Bank, raising the death toll of citizens to 13.

The events marked a crisis point in the already deteriorating relations between the state and the Palestinian community in Israel. Violent responses by the Israeli security forces against Palestinian Arab citizens started to escalate in the late 1990s, as protests over land confiscation and demolitions of Arab homes increased. In September 1998, for example, Israeli security forces injured about 400 residents of Um al-Fahem protesting the planned expropriation of 4,500 acres of agricultural land for military use.⁴² Nonetheless, after the October 2000 events, the Palestinian Arab community could recall no event since the 1976 Land Day in which it sustained so many fatalities during a civil protest.

After nearly three years of work, the first ever Commission of Inquiry (Or Commission) appointed by the government to investigate police brutality against Palestinian Arab citizens issued its conclusions.⁴³ The commission provided much-needed acknowledgement of the government's general attitude of neglect of and discrimination against Arab citizens, and highlighted official failure "to allocate state resources in an equal manner" and "to create equality for its Arab citizens or to uproot discriminatory or unjust phenomenon. [sic]"⁴⁴

Despite the importance of the Or Commission's report in identifying systemic discrimination against the Palestinian Arab citizens of Israel, it failed to provide concrete justice for the victims' families and it skewed blame for the events onto the local Arab leadership.⁴⁵ While the Or Commission stressed that the police must "learn to realize that the Arab sector in Israel

⁴¹ Adalah, Marwan Dalal, October 2000: Law and Politics before the Or Commission of Inquiry (July 2003), at 11. *See also*, Or Commission of Inquiry, Official Summation (2004) (in English) (on file with author) (last visited October 1, 2004).

⁴² Arab Association for Human Rights, Umm al Fahm: Land Expropriation and Police Brutality, (Feb. 5, 2000) at <http://www.arabhra.org/publications/shortreports/index.htm>. Police forces also injured dozens of Arab citizens in political protests in al-Roha (1998), Umm al-Sahali (1998) and Led (1999). *See* Marwan Dalal, October 2000: Law & Politics before the Or Commission of Inquiry (Adalah, July 2003), at 70.

⁴³ More than half of respondents (55%) to a 2003 MADA survey were skeptical about the ability of the Or Commission report to facilitate a just resolution. *See*, The Arab Center for Applied Social Research (MADA) Annual Survey 2004, Summary, *available at* www.mada-research.org/sru/ann_survey.shtml (last visited March 30, 2005)

⁴⁴ Or Commission Official Summation, *supra* 41, at para. 3. Appointed by the government as a judicial body, the Or Commission presented only the second official declaration recognizing the systematic discrimination suffered by the Arab community in Israel. The first known and only other state-sanctioned report to address official discrimination against the Arab minority was the April 2002 State comptroller report on the neglectful and at time negligent state management of road infrastructure, sewage system and industrial zoning in Arab localities. *See* State Comptroller Report, 52 (Jerusalem, 2002) *cited in* Jabareen, *supra* 25, at 113, n.30.

⁴⁵ There still remains ambivalence within the Arab community concerning the Or Commission report, its recommendations and proposed implementation via a government commission with unclear legal status. The High Follow-up Committee for Arab Citizens in Israel stated that it sees the report as an important first step towards "a new and different future for the two peoples based on mutual respect, cooperation, equality and true democracy." It also called for the implementation of the report's recommendations in clear ways and under set deadlines and announced plans to establish professional teams to address the commission's recommendations and monitor their specific implementations. *See* High Follow-up Committee for Arab Citizens in Israel, *The High Follow-up Committee considers the [Or] report as an important official document and demands immediate implementation of its recommendations*, Feb.19, 2003 (in Hebrew) (on file with author).

is not the enemy and must not be treated as such,”⁴⁶ to date, none of the officers implicated in the October 2000 killings has been prosecuted.

Overall implementation of the Or Commission recommendations has been meager, uneven and superficial. Implementation of the recommendations was entrusted to a new commission to be composed of right-wing ministers and MKs, some well-known for their anti-Arab sentiments.⁴⁷ Subsequent government promises to narrow the gaps in education, housing, industrial development, civil service representation, and services, enjoyed only partial execution and many initiatives were never allocated resources. For example, of the Barak government’s 2001-2004 “four billion shekel plan” (EUR 736 million)⁴⁸ to develop Arab areas, less than 60% of the earmarked funds were put forward. The 2005 state budget allocated less than 5% of the development budget to Arab citizens who constitute 20% of the population.

Growing activism and community empowerment among the Palestinian Arab citizens in Israel, particularly behind Arab members of Knesset, forced the rightwing Sharon government to recognize the political strength of Arab MKs and lobby for their support for the 2005 budget and the Gaza withdrawal plan, rather than risk facing early elections. Consequently, Arab MKs voted in favor of the proposed 2005 state budget, in exchange for future economic concessions, and provided tacit support for the Gaza withdrawal plan by abstaining rather than voting against it, even though it had concerns over the plan’s lack of a just resolution to the Israeli-Palestinian conflict.⁴⁹

A 2004 poll indicates that 63% of Palestinian Arabs in Israel expect an increase in racism among Israeli Jews, together with growing economic and social disparities between Arabs and Jews.⁵⁰ Recent debates over a draft constitution, which will include a definition of the state as “Jewish and democratic” as a fundamental tenet, threaten to further marginalize the aspirations of Palestinian Arabs in Israel to gain the status of a recognized national minority with its associated civil and human rights.

Today - as the following chapters of this report will detail - the Palestinian Arab community in Israel suffers from deepening social, economic, legal and political inequalities, particularly the 140,000-strong Arab Bedouin community in the Naqab. Palestinian Arab women remain the most marginalized group in Israel, as they face discrimination both as members of a national minority and as women, while grappling with their lower status within the Arab society. Despite their compounded hardships, Palestinian Arab women enjoy no specific legal or social protections.

⁴⁶ Or Commission Official Summation, *supra* note 41, at para. 27.

⁴⁷ Mossawa Center, Four Years: What was implemented of the Or Commission Report? (prepared by Abir Kopty, 2004) (in Hebrew), at 4.

⁴⁸ Currency conversion at 1 EUR =5.50 NIS (May 19, 2005) .

⁴⁹ See e.g., Hadash-Ta’al website for critique of the withdrawal, or “disengagement” plan, from the Gaza Strip, at <http://www.hadash.org.il> (in Hebrew).

⁵⁰ MADA, *supra* note 43.

IV. CURRENT STATUS OF PALESTINIAN ARAB CITIZENS IN ISRAEL

CHAPTER 1 LEGAL STATUS

1. Introduction

Palestinian Arab citizens in Israel struggle on all fronts to be treated as equal citizens and a distinct minority group of the state. Israel defines itself as both Jewish and democratic.¹ The common assumption is that the qualifying term "democratic" implies equal rights, fair treatment and justice. However, the term "democratic" in the Israeli reality translates into rule by the majority, often at the expense of the needs and rights of the minority – primarily the Palestinian Arab community.

The poor socio-economic and political status of the Palestinian Arab community is reinforced by strategic Israeli legislation.² While in most cases the rule of law does exist in Israel, certain laws were created with the intention to discriminate, exclude, marginalize and even transfer the Palestinian Arab population. Importantly, the Israeli legal system lacks a formal constitution and complete civil rights legislation to safeguard the rights of the Palestinian Arab community. Furthermore, many of Israel's laws are in direct violation of international norms and treaties to which Israel is bound. This chapter will explore how the Israeli legal system discriminates against the Palestinian Arab community on the following issues: the constitutional process; minority status; citizenship; political representation; land and transfer policies; and education.³

2. Basic Laws and Constitution

i) Background

The 1948 Declaration of Independence (Declaration) defines Israel as a Jewish and democratic state.⁴ Although the Declaration proclaimed that by October 1, 1948 a constituent assembly would have prepared a formal constitution, due to internal political disagreements, the Israeli legal system is yet to have one. As a result, limited legislation that partially protects the civil rights of Palestinian Arab citizens is vulnerable to reversal by newly legislated court decisions. The 11 Basic Laws passed to date, though not comprehensive or sufficiently authoritative, are considered by the Israeli High Court to be the basis of constitutional law and trump other laws.⁵

During the early years of the State of Israel, differences between secular and religious parties over which aspect of the state should have primacy – its Jewish nature or democratic

¹ See The Declaration of the Establishment of the state of Israel (May 14, 1948) *available at* http://www.knesset.gov.il/docs/eng/megilat_eng.htm

² See generally, The Association of Civil Rights in Israel (ACRI), *The State of Human Rights in Israel: 2002, and Comments on the Combined Initial and First Periodic Report Concerning the Implementation of the International Covenant on Civil and Political Rights (ICCPR)* (1998), *available at* www.acri.org.il.

³ There are three types of legislative bills: government, committee, and private members' bills. All bills are presented to the Speaker of the Knesset, who can table it for deliberation. The bill must go through three readings before it is adopted. See Official Knesset website *at* http://www.knesset.gov.il/description/eng/eng_work_mel2.htm.

⁴ See Declaration, *supra* note 1.

⁵ See, Official Knesset website, Basic Laws-Introduction, *at* http://www.knesset.gov.il/description/eng/eng_mimshal_yesod.htm.

character – caused this fundamental discussion to reach an impasse that has yet to be overcome. Arguments for a constitution included the desire to fulfill the wishes of the Zionist founders of the state, the need for a document to bind all state institutions, and the desire to respect United Nations General Assembly (UNGA) Resolution 181 that a democratic constitution be drafted.⁶

To explain the absence of a constitution, opponents cited difficulties in reaching a consensus (particularly between the secularists and the religious) and the need to fulfill their role as representatives of Jews worldwide.⁷ Little, if any, thought was given to protecting the Palestinian Arab population that remained in Israel, following its mass displacement and dispersal in 1948.⁸ The Declaration also fails to consider this population's specific needs, when it set to "foster the development of the country for the benefit of all its inhabitants; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex."⁹ Although expressed in writing, this aspiration of the Declaration has not applied to the Palestinian Arab citizens in practice.

ii) Basic Laws

Currently, Israel has neither a constitution nor provisions guaranteeing the all rights enumerated in its Declaration of Independence. Since the establishment of the Israeli Parliament (Knesset), 11 Basic Laws have been enacted. Only two of these, enacted in the early 1990s, address human rights concerns, Basic Law: Human Dignity and Liberty (1992) and Basic Law: Freedom of Occupation (Profession) (1994).¹⁰ According to Article 1, the purpose of the Basic Law on Dignity is "to protect human dignity and liberty, in order to establish ... the values of the State of Israel as a Jewish and democratic state." Article 4 states that "all persons are entitled to protection of their life, body and dignity." Furthermore, at the passage of Basic Law on Occupation, the Basic Law on Dignity was amended to state that human rights in Israel are based upon recognition of the value of the human being, the sanctity of human life, and the principle that all persons are free (as guaranteed by the spirit of the Declaration). To date, no Basic Law guarantees equality for all citizens without discrimination on the basis of national origin, ethnicity, or religion.

Israel's legal system provides partial legal protection for civil rights. Judicially, equality has been recognized as a fundamental right. The High Court has declared that "discrimination on grounds of religion or race will be regarded as improper use of administrative discretion, even if that discretion is absolute," and that "all statutory provisions must be construed so as to further the principle of equality before the law."¹¹ However, this ruling is vulnerable given

⁶ UNGA Resolution 181, Part 1 (B). The Resolution calls for the constitution to "guarantee to all persons equal and non-discriminatory rights in civil, political, economic and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly and association."

⁷ Official Knesset website, The Constitution, at http://www.knesset.gov.il/description/eng/eng_mimshal_hoka.htm

⁸ Yousef Jabareen, Constitutional Protection of Minorities in Comparative Perspective: Palestinians in Israel and African-Americans in the United States (Doctoral Dissertation, Georgetown University Law Center, 2003), at 105.

⁹ Declaration, *supra* note 1.

¹⁰ See Basic Law: Freedom of Profession (Occupation), 1994, and Basic Law: Human Dignity and Liberty, 1992, available at <http://www.knesset.gov.il>. Basic Law: Occupation, Article 3, "every Israel national or resident has the right to engage in any occupation, profession or trade."

¹¹ Jabareen, *supra* note 8, at 9, 11. Notably, the High Court has actively ruled in favor of implementing equality provisions related to women's rights, but remained cautious in ruling on similar provisions for the Palestinian-Arab community.

the lack of explicit protection of equality and non-discrimination in the Basic Law on Dignity. Although the High Court may strike down Knesset laws that are incompatible with the Basic Law on Dignity, it is restricted by the limited scope of rights contained in the basic law.¹² The drafters of the Basic Law on Dignity intentionally omitted equality from the litany of protected rights; the majority rejected the inclusion of the right to equality primarily because of the opposition of the typically strong religious parties.¹³

Furthermore, the provisions of the Basic Law on Dignity prevent the High Court from striking down potentially discriminatory laws in two ways. The Basic Law on Dignity does not apply retroactively; and its "allows for abridgement of the rights protected by its provisions if the abridgement is carried out by a law that (a) fits the values of the State of Israel, (b) is designed for a proper purpose, and (c) to an extent no greater than required."¹⁴ Notably, these "values of the State of Israel" are to maintain its Jewish definition alongside its democratic one, with all its problematic implications for the Palestinian Arab community in Israel.

iii) Draft Constitutional Proposals

The public discourse on a constitution has tended either to ignore or to pay lip-service to the significant Palestinian Arab community's role as citizens and their needs as a disadvantaged minority. The tension between the Jewish and democratic definitions of the state is ironically expressed by MK Ahmed Tibi: "Israel is democratic for its Jewish citizens and Jewish for its Arab citizens."¹⁵ Since the original debate on the creation of a constitution, a handful of proposals regarding the constitution have been submitted to the government for consideration. Dating from 1950 to the present, few government or civil society constitutional proposals have accounted for the rights of the Palestinian Arab community.¹⁶ For example, in 1999, Arab MK Mohammad Barakeh proposed the Basic Law: The Rights of the Arab Minority, which was rejected by the vast majority of the plenum session in the Knesset. At the time, the proposal received great media attention

The first proposal put forward on June 13, 1950 by then MK Yizhar Harari (Progressive Party), set up the Constitution, Law, and Justice committee in the Knesset, to create chapters, each of which would be a basic law that would together act as a constitution.¹⁷ This committee exists to this day, and is currently engaged in intense debate, as the Palestinian Arab community demands that it account for their rights in the creation and subsequent implementation of a constitution.

¹² *Id.* at 125.

¹³ *Id.* at 126.

¹⁴ Article 8 of the Basic Law: Human Dignity and Liberty.

¹⁵ International Crisis Group Report (ICG), *Identity Crisis: Israel and Its Arab Citizens* (March 4, 2004), at 11 *quoting* MK Ahmed Tibi (Arab Movement for Renewal Party Chairperson).

¹⁶ In 2002, the Kinneret Covenant was created by 60 Jewish-Israelis working at the Yitzhak Rabin Center for Israel Studies, who sought to define the character and aims of the state. The basis of their proposal was the Jewish and democratic nature of the state. Favoring the Jewish aspect of the state, they only allowed those who identified as a non-political Jewish Zionist to participate, thereby excluding one-fifth of the population of the state, the Palestinian-Arab minority. American Jewish Congress, *The Winter of Israel's Discontent*, Inside Israel, Report #233 (Jan. 20, 2002) at <http://www.ajcongress.org/mideast/ii233.htm>

¹⁷ Official Knesset website, *Constitution*, at

http://www.knesset.gov.il/description/eng/eng_mimshal_hoka.htm#4

Recently, the Israel Democracy Institute (IDI) has promoted a "Constitution by Consensus," which has been criticized by leading Palestinian Arab scholars in Israel for emphasizing the Jewish nature of the state at the exclusion of minority rights, harming democratic values.¹⁸ Moreover, some Arab scholars and leaders reject IDI's draft constitution, based on its merely symbolic inclusion of the Palestinian Arab community in the creation of the document.

Although Article 10 of IDI's proposed draft states that "The State of Israel shall guarantee the status of the Arab and Druze minorities and of other minorities within the state" (listing Druze separately although they are a part of the Arab community), it maintains the status quo. This is particularly evident through its enshrining the conflicting values of Israel as both a Jewish state, which by definition privileges a particular group. Furthermore, the draft removes certain rights necessary to protect the rights of a national minority. For example, although Arabic is an official national language, IDI's draft replaces this with "Hebrew is the language of the state" and Arabic has "a recognized, special status" that will be set forth in a statute.¹⁹

Arab scholar Nadim Rouhana has cautions that "Arab approval or disapproval of [the constitution] is the key to its real legitimacy."²⁰ As the group of Israeli citizens most affected by shortcomings in unprotected democratic equality and effective rule of law, the lack of support by this community would call into question any criticisms both nationally and abroad.

In a separate initiative, the High Follow-Up Committee for Arab Citizens in Israel has recently organized a roundtable for Palestinian Arab scholars, lawyers, and NGOs to discuss the provisions necessary to guarantee rights for the Palestinian Arab community. Civil rights scholar and legal advisor to the Mossawa Center, Dr. Youssef Jabareen, in his position paper circulating in the constitutional debate, suggests that a future constitution must include the following guarantees for the Palestinian Arab community: equal and fair allocation of symbolic, political, and material public resources; recognition and implementation of Arabic as an official language; fair representation in decision-making bodies and equal employment opportunities; and educational and cultural self-management. "Equality for all should be the foundation for any constitutional arrangements," he emphasizes.

3. *Minority Status*

Arab citizens in Israel enjoy limited minority rights. They are not afforded official status of a national minority, and are often treated as second- and third-class citizens, socio-economically, politically, and legally.²¹ For example, although Arabic is an official language in Israel, this mandate is implemented sporadically in both government and public institutions and spaces.²² Furthermore, although a separate school system is established for Arab localities, in which courses are taught in Arabic, they receive unequal funding. The

¹⁸ IDI is not an official body. The Constitution, Law, and Justice Committee of the Knesset remains the official body dealing with the issue of the constitution.

¹⁹ See Aeyal Gross, *A Constitution for Israel: With Whose Consent and at Whose Expense?* Adalah Newsletter, Vol. 9, January 2005, at 2-3.

²⁰ Nadim N. Rouhana, *Constitution by Consensus': By Whose Consensus?* Adalah Newsletter, Vol. 7, November 2004, at 3.

²¹ See, Asa'd Ghanem, *State and Minority in Israel: The Case of the Ethnic State and the Predicament of its Minority*, 21 *ETHNIC & RACIAL STUDIES* 428 (1998) for a discussion of the political, social, cultural and economic experiences of Palestinians in Israel.

²² The King's Speech in the Council of Israel Law 1922/1948 HAI (Hoki Aretz Yesrael), Volume III, 2569.

government-produced teaching materials Arab schools must use focus on Jewish history and the Jewish aspect of the state only. This ignores the history and unique perspective of the Palestinian Arab community that schools would like to teach in addition to the state-produced material.²³ The Palestinian Arab community can utilize independent Muslim, Druze and Christian religious denominational courts, but only to adjudicate matters of personal status law governed by their respective religions. Furthermore, the state regulates the judicial appointments to the Muslim courts.

The definition of a national minority in international law and scholarship evolves as the definition of an ethnic and/or religious minority changes in various countries according to their particular histories and populations. The Palestinian Arab community is caught between two regimes of relevant legal protection: minority rights and indigenous rights. Consisting of those who remained and were internally displaced during the creation of the state and their descendents, Palestinian Arab citizens are an indigenous population to Israel.²⁴ They have their own language (Arabic), religions (Christianity, Druze, Islam), ethnicity/race (Arab), nationality (Palestinian), culture, and historical affiliation with all Palestinians and with the broader Arab world. As such, they constitute various minority groups and are entitled to the protections awarded to these groups under international law.²⁵

The Mossawa Center advocates for both minority status recognition in Israel and indigenous rights.²⁶ The Palestinian Arab community strives to be integrated into the larger public sphere and civil society in Israel as active, equal citizens, while seeking to maintain its unique national, cultural, linguistic and religious identity. Nonetheless, Palestinian Arab citizens demand to be treated as equals regardless of their official identification by the state, and for their national institutions to be recognized by the state.

4. *Citizenship*

One key issue highlighting the contradiction inherent in defining Israel as both a Jewish and democratic state is citizenship rights. The discussion of citizenship is directly tied to the “demographic” debate, which is based on the desire of political leaders to limit the number of non-Jews in the state, thereby preserving its Jewish character. For example, **The Law of Return (1950)** and **The Citizenship Law (1952)** allow any Jew to immigrate to Israel and gain citizenship. Meanwhile, Palestinian Arabs who were expelled from their homes and lands to become refugees are excluded.

²³ See, MAJED AL-HAJ, EDUCATION, EMPOWERMENT, AND CONTROL: THE CASE OF THE ARABS IN ISRAEL (1996).

²⁴ For a working definition of indigenous peoples, see José Martínez Cobo, Special Rapporteur of the UN Sub-Commission on Prevention of Discrimination & Protection of Minorities, Study on the Problem of Discrimination against Indigenous Populations, U.N. Doc. E/CN.4/Sub.2/1986/Add.4 (1986).

²⁵ For a working definition of minority, see Francesco Capartorti, Study on the Rights of Persons belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Add.1-7 (1977):

A group, numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and who, if only implicitly, maintain a sense of solidarity, directed towards preserving their culture, traditions, religion or language.

²⁶ The primary difference between the two labels is that an indigenous people is set-apart from the majority society, maintaining a partially self-governed society with its own norms, rules and culture. Such a separate group might be represented by a portion of the Palestinian Arab community, namely the Bedouin in the Galilee and the Naqab (Naqab).

The most pressing, recent legislation that directly discriminates against Palestinian Arab citizens is **The Nationality and Entry into Israel Law (Citizenship Law)**,²⁷ passed in July 2003 as a temporary measure that requires annual approval. The Citizenship Law retroactively prohibits citizenship and legal residency status to all West Bank and Gaza Palestinians married to Israeli citizens and residents (including Palestinians who live in East Jerusalem who hold special residency status in Israel).

Partially due to mounting pressure from leading Arab, Jewish and international human rights organizations and the Israeli High Court, in July 2004, the Attorney General agreed that given the punitive nature of the law it should be renewed for 6 months only. On January 17, 2005, newly elected Minister of the Interior, Ophir Pines-Paz along with a special committee set up by Prime Minister Ariel Sharon reviewed the law, and renewed it for an additional 6 months. On May 15, 2005, the committee's suggested amendments were approved through March 2006. These amendments were later approved by the Knesset in July 2005. The changes to the law include allowing Palestinian men over the age of 35 and women over the age of 25 to join their spouses in Israel; enabling the application for family unification (prior to the temporary law, application permits were rarely considered; the Citizenship Law froze the application process); and forbidding unification for families and/or their first degree-relatives who are deemed a "security threat" by Israeli authorities.

The Citizenship Law affects at least 21,298 families according to the Ministry of the Interior, and not only prevents newly married couples from being able to live together, but also affects couples who have been married for years, and whose requests for residence permits are still pending. This law directly discriminates against Israeli citizens of Palestinian origin and their spouses, as Palestinian Arab citizens of Israel are almost exclusively the ones to marry West Bank and Gaza residents. The law violates the rights of both Palestinian Arab citizens and residents of the West Bank and Gaza to marry, form a family and choose a place of residence, amongst others.

This legislation does not affect marriages between Israeli citizens and other foreign spouses, including Jewish settlers illegally residing in the Occupied Palestinian Territories. As a result, this law permits discrimination on grounds of ethnicity and national origin and violates international human rights law, treaties and domestic laws by which Israel is obligated.²⁸

5. Political Representation

In seeking proper political representation, the Palestinian Arab population in Israel faces numerous legal and social obstacles. Legislation places stringent conditions on (a) what political parties and which individuals are eligible to register and to run for political office, particularly regarding the candidate's commitment to the Jewish character of the state, and (b) the percentage of votes required to run for office.

(i) The Law of Political Parties (1992) (Amendment 12) 2002

Article 5 of the Political Parties Law restricts the registration of political parties based on their political ideology. The 2002 amendment to Article 5 states that a political party that wishes to run for the Knesset elections will not be registered if its goals or actions, directly or indirectly, "support armed struggle of an enemy state or of a terror organization, against the state of Israel." In addition, this law sets forth various ideological limitations on the

²⁷ Temporary Order, 5763-2003.

²⁸ Petitions against the law to the Israeli High Court of Justice are pending, with no decision yet delivered by the Court. See Mossawa Center press releases on the issue from 2003-present at <http://www.mossawacenter.org>

registration rights of political parties, similar to Article 7A of The Basic Law: The Knesset (discussed below).

Thus, given the broad scope of the amendment, a political party's opposition to Israeli occupation of the Palestinian Territories could be construed as support of an armed struggle. The vagueness of what constitutes such support inhibits freedom of speech and the ability to constructively criticize the actions of the Israeli government. Moreover, it undermines the possibility of true and fair representation of the Palestinian Arab community, the majority of whom is opposed to the occupation of the Palestinian Territories and sympathizes with their counterparts in the West Bank and Gaza.

(ii) The Basic Law: The Knesset (1958) (Amendment 35), 2002

Section 7A, "Prevention of participation in the elections," added in 1985, sets forth various view-point limitations on the ability of political parties to run in Knesset elections.

This law provides that:

A list of candidates shall not participate in the election for the Knesset if its aims or actions, expressly or by implication, point to one of the following:

- (1) denial of the existence of the state of Israel as the state of the Jewish people;
- (2) denial of the democratic nature of the state
- (3) incitement to racism

This amendment "clearly abridges the right for full political participation in Israel for the sake of formally maintaining Israel's definition as the state of the Jewish people."²⁹ This is affirmed even further by the fact that two bills were rejected that offered alternatives to item (1), suggesting that "the law merely refer to 'denial of the existence of the State of Israel,' or to Israel 'as the state of the Jewish people and its Arab citizens.'"

In 2002, the Knesset amended Section 7A of the Basic Law on the Knesset with provisions that further curtail political freedoms. The most important changes in the law are that: (1) the provisions now apply not only to political party lists but also to individual candidates (subject to judicial review by the High Court); and (2) "support of armed struggle, of an enemy state or of a terrorist organization" was added to the list of prohibitions on participation. Thus, a political party that rejects legal advantages that Jews enjoy over Palestinians Arab citizens in Israel, such as the Law of Return, cannot even register, much less participate in national politics, even if the party is committed to achieving change through the parliamentary process alone. In other words, in order to qualify for registration and to run for the Knesset, a political party cannot advocate equal rights for Palestinian citizens of Israel, thus making it difficult for representatives of the Palestinian community to freely express their ideas without fear of legal retaliation.³¹

(iii) The Law of Election (1969) (Amendment 46), 2002

The new amendment to Section 57 of the Law of Elections states that a candidate who wishes to run for election to the Knesset must declare as follows: "I commit myself to pledge loyalty to the state of Israel and to avoid acting in violation of Section 7A of the Basic Law: The Knesset." This amendment complements Section 7A of the Basic Law: The Knesset. For an Arab citizen, loyalty to the Jewish character of the state implies the abandoning the struggle

²⁹ Jabareen, *supra* note 8, at 135.

³¹ *Id.* at 139 n. 116.

for full equal rights, as it is the Jewish character of the state that legitimizes its discriminatory policies, and pro-majority legislation and approach.

(iv) The Law of Immunity of Members of Knesset: Their Rights and their Duties (1951) (Amendment 29), 2002

On July 22, 2002, the Knesset passed an amendment to the Immunities law in order to “remove any doubt” as to expressions of opinion or actions taken by MKs, which are considered to be official acts as parts of his/her duties. The new amendment adds to the existing law that any statement or action, which “supports an armed struggle against the State of Israel,” is deemed not to be an official part of an MK’s duties. Statements or acts that fall outside of an MK’s duties are not protected by his/her parliamentary immunity, and thus may be criminally prosecuted. As mentioned above, such subjective qualifications limit freedom of speech to constructively criticize government policies, and primarily target Palestinian Arab MKs.

(v) Election to the Knesset (2005)

There are constant, and even simultaneously, law suggestions to increase the percentage of votes needed to allow political parties to be a representative in the Knesset. Previous legislation increased the percentage to its current status of 1.5%. The Election to the Knesset Law (2005) raises this percentage to 2%. These laws will influence the Palestinian Arab community, which forms a minority voting group that usually splits its vote across both the larger parties and the smaller, Arab political parties. By raising the threshold, Palestinian Arab citizens will be unable to vote for the party of their choosing for fear that their vote would be wasted. As not all Arabs vote in elections or necessarily vote for Arab parties, the percentage needed to support a party is decreased even further.

6. Land Distribution & Population Transfer

i) Land Distribution & Policy

Land issues in Israel are directly tied to the citizenship and demography debate about the Jewish nature of the state. The first government of Israel was quick to acquire as much land for the Jewish immigrants as possible, in an attempt to avoid addressing both UNGA resolution 181 and the fact that Palestinian refugees would want to return to their land. Laws have been created with the explicit purpose of transferring Arab-owned land to state control.³²

The process began with the **Absentees’ Property Law (1950)**, which defines persons who were expelled, fled, or left the country between 1948 and 1952 as “absentees,” and their movable and immovable property as “absentee.” As “present absentees,” even if the persons remained within the country or returned when they thought it was safe, they were not allowed to return to their land or property.³³ Property belonging to absentees (mainly land, apartments and bank accounts) was expropriated and put under control of the Custodian for Absentees’ Property, subordinate to the State of Israel. Since 1948, all “absentee properties,” including

³² See generally Oren Yiftachel, *Planning and Social Control: Exploring the Dark Side*, 12 J. PLANNING LITERATURE 395 (May 1998); and ELIA ZUREIK, *THE PALESTINIANS IN ISRAEL: A STUDY IN INTERNAL COLONIALISM* (London: Routledge and Kegan Paul, 1979).

³³ The Global IDP Database, The Israeli government enacted a series of laws by which it acquired land or prevented access to it (1950-1980), at <http://www.db.idpproject.org/Sites/idpSurvey.nsf/wViewCountries/B9BFDC01ECD624C3C1256B36003374D4>

properties of the Islamic holy sites (*Waqf*), have undergone a series of transfers that placed them under various authorities culminating in a process of privatization.³⁴

Whereas in 1948, the Jewish community owned less than 10% of the land, today the state controls 93% of the land. In contrast, only 3.5% of the land is owned by Palestinians in Israel. Due to legal discrimination and the government's policy of slating land only for Jewish expansion, Palestinian Arab citizens "are effectively blocked from acquiring or leasing land in some 80% of Israel's land."³⁵

The Israel Land Administration (ILA), a governmental institution, and the Jewish National Fund (JNF, *Keren Kayemet LeYisrael*), a semi-private institution whose mandate is to buy land and distribute it to Jewish people only, are currently questioned for their inter-relatedness and systematic discrimination against Palestinian Arabs in land allocation. Criticisms are based on the historic land transactions through the state to the JNF (known as the "transaction of millions"), and current, ethnically-biased policies. Approximately half of the land owned by the JNF was confiscated or seized from Palestinian refugees and citizens following the War of 1948.³⁶ Then Prime Minister David Ben-Gurion encouraged the sale of land to the JNF to avoid international pressure forcing Israel to restore the land to the original owners, the Palestinian refugees.³⁷

In 1960, the JNF and the Israeli government signed a charter to establish the ILA, agreeing that the JNF would be responsible for all the forests located on state lands, and that the ILA would administer the lands.³⁸ Only Jews were allowed to participate in land-lease tenders. Overall, the ILA and JNF charter administer 93% of all land in Israel.³⁹ In this charter, the JNF, which owns 13% of the lands, also received the right to appoint half of the members of ILA's board of directors and to hold equal representation on ILA's committees to that of the state. Furthermore, almost all lands the JNF holds are in areas of the highest demand – almost 40% of the highly fertile central district, and approximately 30% of the country's three largest cities.⁴⁰ It was not until January 26, 2005, in a response to a petition filed to the High Court by three Palestinian Arab human rights organizations, including the Mossawa Center, that Attorney General Mehachem Mazuz ruled that the ILA is also obligated to market JNF lands to Arabs.⁴¹ However, the Mazuz decision does not affect the internal decisions of the JNF, which continue to discriminate by allocating tenders to Jews only.⁴²

³⁴ Palestinian Refugee Research Net, Topic: The Palestinian Community in Israel: Absentees' Property and Permanent Status, at http://www.arts.mcgill.ca/mepp/new_prn/research/papers/ittijah.htm.

³⁵ See THE JEWISH-ARAB RIFT IN ISRAEL: A READER 17 (Ruth Gavison & Dafna Hacker eds., 2000) (in Hebrew).

³⁶ Amiram Barakat, *Buying the State of Israel*, Ha'aretz, (Feb. 10, 2005) at <http://www.haaretz.com/hasan/objects/pages/PrintArticleEn.jhtml?itemNo=564593>

³⁷ *Id.*

³⁸ Many of Israel's "forests" are actually the remnants of destroyed, confiscated Palestinian villages whose demolished remains sometimes and still-standing churches, mosques, and graveyards constitute the government's definition of a forest.

³⁹ Barakat, *supra* note 36. According to Barakat, this includes state-owned lands, JNF lands, and lands belonging to the Development Authority, an agency set up to administer land formerly belonging to 1948 refugees and not sold to the JNF.

⁴⁰ *Id.*

⁴¹ Three separate petitions were filed by The Mossawa Center, the Human Rights Clinic of the Tel Aviv University, The Arab Center for Alternative Planning, the Association for Civil Rights in Israel, and Adalah. The petition particularly referred to the ILA's decision not to market lands to Arabs in a tender in Givat Makush in the village of Carmiel. According to petitioner Dr. Hanna Sweid of the Arab Center for Alternative Planning, although this response settles the dispute between the state and the JNF, it does not solve the problem of "substantive continued discrimination against Israeli Arabs in the marketing of land." See Dalia Tal, *Mazuz*:

The Case of Iqrith and Bir'em*

Palestinian citizens' desire for justice in the return of lands confiscated during the creation of the state lies in a High Court decision on July 31, 1951. In this decision, the High Court gave the Palestinian-Arab inhabitants of a village in the Galilee, near the Lebanese border – Iqrith - the legal right to return.

The Israeli army entered Iqrith on October 31, 1948, and on November 6th of that year told the inhabitants of Iqrith to go to the nearby village of Rama, for "at most" two weeks, "until the security situation allows for their return." It was in response to the Court decision that the Israeli army completely demolished the village – homes, fields, the schools, work buildings, etc. – save for the (Greek Catholic) church and graveyard.

It was not until September 20, 1970 that the former residents of Iqrith were even permitted by the government to bury their dead in their family tombs. Furthermore, by 1955, 16,000 dunums of land from Iqrith had been expropriated by the government to establish Jewish settlements around the former village, of which there now stand five. The legal battle between the descendents of Iqrith and the government continues to this day, with no success.

A similar case exists with the village Kfar Bir'em, also located in the Galilee. These are the only two destroyed villages that hold the judicial right to return. The inhabitants of both villages were internally displaced after the creation of the state. While the ruins of Iqrith remain somewhat untouched, Kfar Bir'am has since been turned into a "national park," to which former inhabitants of the village must pay a fee in order to visit.

**For more information, see: Justice for Ikrit and Biram, Ha'aretz, Oct. 10, 2001; Meron Benvenisti, The High Court and fear of return, Ha'aretz, July 3, 2003; Jack Khoury, Raising a third generation on the uprooting of Ikrit, Ha'aretz, March 29, 2005; Ibrahim Attallah, Right, Land, and People: The Story about Iqrit, (in Arabic, forthcoming).*

2. Population Transfer

Several laws discriminate against Arab Bedouin citizens, and violate their basic rights to housing, access roads, basic services, such as water access, electricity, health clinics, sewage facilities, and access roads. Comprising some 140,000 persons in the Naqab (Negev) (not including those Bedouin in the Galilee), these Arab Bedouin reside on only 1.3% of the land in the Naqab region (the southern, arid region of Israel). Approximately half of these citizens have been concentrated into seven urbanized townships (which lack the needed infrastructure for natural development), a process that began during the late 1960s and early 1970s, forcing them to abandon both their lands and traditional way of life – farming and raising flocks.⁴³

The government does not provide these basic services to the unrecognized villages because, according to their view, they are located on state land designated officially as “non-residential,” and often allocated specifically for agricultural use. This designation is

ILA must sell JNF to Arabs, too, Globes Online, Ha'aretz, Jan. 27, 2005. *See also, Abu Rayeh & The Mossawa Center v. ILA* H.C. 7452/04 (2004) (pending).

⁴² *See Qa'dan v. Israel's Land Administration* (2000), H.C. 6698/95, 54 P.D. I 258 (High Court overruling residents housing committee's rejection of application by Arab citizen to buy land at a Jewish locality which receives subsidies from the state).

⁴³ *See Penny Maddrell, Minority Rights Group, The Bedouin of the Naqab* (1990); Ismael Abu-Saad, *Education as a Tool of Expulsion from the Unrecognized Villages*, Adalah Newsletter, Vol. 8, (Dec. 2004), at 1.

according to the **National Planning and Building Law (1965)**, which re-zoned the land on which these villages are located, applying retroactively to all the villages, their infrastructures, and buildings. However, the Bedouin resided on these lands prior to the creation of the state and, contrary to popular belief, ceased their nomadic nature during the British Mandate.⁴⁴ The seeming nomadic nature of the Bedouin is often used as a reason by the government to discourage the recognition of villages, as the government claims this characteristic proves they did not live, work, or own the land prior or subsequent to 1948, and therefore they are not entitled to live there today.

PM Ariel Sharon's "Negev Development Plan," approved by the government on April 9, 2003, works in cooperation with other laws and policies to systematically discriminate against the Bedouin population. It is a 5-year plan whose objective is "to alter and improve the situation of the Bedouin population in the Naqab, relieve [the population's] distress, arrange for the orderly recording of land in the Naqab, and strengthen law enforcement."⁴⁵ However, the Palestinian Arab community responded to the decision by emphasizing its disregard for the rights of the Bedouin citizens living in the Naqab. Bedouin leaders proposed plans to solve the situation of the unrecognized villages by establishing rural, agricultural villages suitable for the needs and lifestyle of the Bedouin. These plans were not even considered by the Israeli planning authorities.⁴⁶

In January 2004, PM Ariel Sharon and MK Ehud Olmert, Minister of Industry, announced in a meeting with Jaber Abu Khaf, Head of the Regional Council of the Bedouin Unrecognized Villages that despite the wishes of the Bedouin themselves, that the Plan was moving forward.⁴⁷ Irrespective of the Plan's declared objective to relieve the distresses of the Bedouin, the government continues to implement its discriminatory policies of demolishing homes, withholding basic services, and simultaneously concentrating the Bedouin populations in townships while allocating land for Jewish settlers.

As part of Sharon's "Negev Development Plan," the Bedouin citizens of Israel face legal and political discrimination on two counts: **The Removal of Intruders Law (1981) Amendment (2005)**. The Removal of Intruders Law (1981) details the legal process for the removal of the inhabitants from "illegal" homes built on governmental land in Israel – i.e. anyone living on the "non-residential" land as defined by the National Planning and Land Act (1965). The 2005 Amendment to this law strengthens the law's enforcement mechanisms by consolidating the body that issues demolition orders and the body that implements them – a process which will unjustly target the existing 38 unrecognized and 7 newly recognized villages in the Naqab and streamline efforts to build Jewish settlements in their place. This is particularly acute in light of the Gaza Withdrawal from settlements in the Gaza Strip, as governmental representatives held discrete negotiations with some of these Jewish settlers to appropriate land in the Naqab in exchange for the withdrawal,⁴⁸ and some of these groups have already been settled in the Naqab.

⁴⁴ The Regional Council of the Unrecognized Villages, the official political representation of the Bedouin in the unrecognized villages.

⁴⁵ See Amin Fares, Mossawa Center, Arab Bedouin in the Naqab and the Budget Policies (2003) (in Hebrew); *Adalah to PM Sharon: The Government's Five-Year Plan for the Arab Bedouin in the Naqab is Discriminatory and Illegal*, Adalah Press Release, (May 8, 2003), at 1.

⁴⁶ Interview with Yousef Jabareen, Legal Advisor, Mossawa Center, in Haifa, Israel (May 10, 2005).

⁴⁷ Interview with Jafar Farah, Director, Mossawa Center, in Haifa, Israel (January 2004).

⁴⁸ Nir Hasson, *Katif farmers in discrete talks for Naqab land swap*, Ha'aretz, Dec. 28, 2004.

Mossawa Center's legal experts warn that the Removal of Intruders Law (1981) Amendment (2005) could adversely affect those 76,000 Bedouin citizens of Israel who continue to live with substandard services from the government.⁴⁹ Given their current historic struggle to maintain social and economic dignity in the face of governmental discrimination, this law exacerbates their situation by allowing the gaps in health, education, and other basic services. It widens the gap further by speeding the legal processes to eliminate their homes and dwelling off the unrecognized map of the Naqab. As a presently vulnerable population, this law enables the government to quickly transfer the Bedouin without due notice, insulated from international pressure due to the positive withdrawal from Gaza.

The Disengagement Law-2005, passed by the Knesset on February 18, 2005, complements the Sharon Plan. The Disengagement Law details a number of monetary, cultural and geographic provisions to ease the transition of the settlers from Gaza to the Naqab and Galilee (Clause 47A of the Law, in Hebrew). Parallel to this law, government institutions were created to ensure the "situation" of the Bedouin would be handled, including a Home Demolition Unit and Office of Bedouin Administration.⁵⁰

The provisions for the Jewish settlers outlined in the Disengagement Law contradict the policies afforded to the Bedouin, who are forced to leave their homes, and want to remain on their private property. It states that Jewish settlers receiving compensation to resettle in the Naqab (and the Galilee) can receive NIS 135,000 (US\$31,395) to purchase land to construct a house (Clause 47A). Another example of governmental discrimination in monetary payment towards the Bedouin: in 2000, Bedouin were given \$1,000/dunum (it should be noted that even if the land the Bedouin reside on is "unrecognized," should they decide to sell, they are recognized as owners – only during the monetary interaction), whereas Jewish citizens from Kibbutz Oz were given \$17,000/dunum, even if they were merely *renting* the lands from the state.⁵¹

6. *Education, Culture & Religion*

Aside from socio-economic discrimination and the policy of exclusion from decision-making bodies related to education, the Israeli legal system contributes to the disadvantaged status of education and culture in the Palestinian Arab community.⁵² For example, **The State Educational Law (1953)** defines the institutional basis and goals of the public education system in Israel mainly in reference to Jewish students. Furthermore, the objectives of the legal system, as amended in 2000 serve only to advance Jewish culture and heritage, ignoring the distinct educational and cultural needs of Palestinian-Arab citizens.⁵³ See Part V, Chapter 1 on relations with Jews in Israel, for more details.

⁴⁹ For a discussion of international law and Israel policies in the Naqab (Naqab) see Physicians for Human Rights, No Man's Land: Health in the Unrecognized Villages in the Naqab (July 2003).

⁵⁰ See The Mossawa Center, The Disengagement Plan from the Gaza Strip: Implications on the Status of the Arab Citizens of the Naqab, working paper, (April 2005).

⁵¹ Itzhak Bali, Report on the Situation of the Bedouin Villages Planned in the Naqab, including Recommendations for Affirmative Action, (Harry S. Truman Research Institute for the Advancement of Peace, Hebrew University, 2000) at 5 (in Hebrew).

⁵² See Al-Haj, *supra* note 23.

⁵³ Youssef Jabareen, *Law, Education and Social Change: The Case of Arab Education in Israel*, in EDUCATION, SOCIAL DEVELOPMENT AND EMPOWERMENT AMONG INDIGENOUS PEOPLES AND MINORITIES: INTERNATIONAL PERSPECTIVES 18 (Champagne et al. eds., 2005).

Furthermore, legislation regularly privileges Jewish culture and heritage over the indigenous Palestinian community. For example, the **Broadcasting Authority Law (1965)** and the **Channel 2 for Television and Radio Law (1990)** promote Zionist and Jewish heritage without giving equitable space for indigenous Palestinian culture and heritage. **The High Institute for Hebrew Language (1953)** promotes Hebrew literature, language and culture in public and private institutions and general cultural activities in Israel. There is no compatible arrangement for Arabic.⁵⁴

Finally, blatant disparity exists in the legal status, intention of this status, and implementation of legislation regarding the protection of and freedom of access to religious sites. Article 1 of the **Protection of Holy Places Law (1967)** states that “the holy places will be protected from any desecration or other violation, and from anything that could impair the freedom of access of all religions to their holy places, or affect their feelings towards their holy places.”⁵⁵ Interestingly, in a separate statement on this law to the U.S. State Department, the Israeli government confined protection under this law “only to Jewish holy places.”⁵⁶

Consider, for example, the case of the mosque in Ghabisiya. This 240 years old mosque served Ghabisiya as well as 4 surrounding villages prior to 1948. Following the 1948 war, members of the Ghabisiya community engaged in a legal battle to prevent their eviction from the village. The High Court ruled in their favor, but in 1955 security forces razed all but the mosque and cemetery. By 1972, this group had organized itself into a formal community, which began lobbying the Prime Minister for permission to repair the mosque and cemetery, which were run-down and overgrown. In 1995, this committee of former inhabitants decided to clean the mosque to hold Friday prayers, as its situation had further deteriorated to the extent that wild animals were wandering freely through the holy place. In response to the committee’s initiative, the Israel Lands Administration (ILA) and security forces threw out prayer rugs, removed copies of the Qur’an, and arrested the head of the committee. Trying again a year later, the ILA and police again returned and responded as they had before, and additionally locked up the mosque with a high steel fence. Today, interior is open to the elements, but still Muslim worshippers pray every Friday outside the fence in protest.⁵⁷

Legal battles in 1997 “resulted in an ILA deposition that the building was ‘not a mosque,’ despite 1943 Hagganah [underground Jewish military organization in Palestine from 1920-1948] archives recording its presence.” Unable to decide if preventing Muslim citizens from praying in their mosque was illegal or not, the court gave a verdict of “unjudicial.”⁵⁸

⁵⁴ Legislation to eliminate the legal status of Arabic as an official language of the state is proposed on a regular basis. For example, a recent proposal that was rejected following advocacy by the Mossawa Center's government relations staff was "The Hebrew Language Law Suggestion, Amendment to Article 82 of 'King's Speech in the Council on Israel Law' (1948) (Tzvi Handel, Ehud Leumi).

The purpose of the language draft law was to allow Hebrew to stand as the only official language of the state, eliminating Arabic's current legal status (although not fully implemented) as an official language. It would amend a law that was in effect since the British Mandate prior to the establishment of the state (1922-1947). Under such a law, the government would bear no obligation to publish public documents in Arabic, including government papers, publications, public service announcements and legislation. This law would not only have disadvantaged the Palestinian Arab minority, but it ignores the historic right of an indigenous population to use their language as an official language.

⁵⁵ See ARAB ASSOCIATION FOR HUMAN RIGHTS, SANCTITY DENIED: THE DESTRUCTION AND ABUSE OF MUSLIM AND CHRISTIAN HOLY PLACES IN ISRAEL (December 2004) at 30.

⁵⁶ Id.

⁵⁷ Id. at 29

⁵⁸ Id.

Case Study: The Follow-Up Committee on Arab Education v. The Ministry of Education (2000) 54 P.D. III 233

The Ministry of Education launched enrichment programs for socio-economically weak communities in the 1970s. However, since that time, these programs were only implemented in the Jewish educational system. This decision was explicitly discriminatory, as government data and statistics clearly illustrated that the Palestinian Arab community in Israel occupies the lowest socio-economic rankings.⁵⁹ For example, according to The Mossawa Center's research on the government's socio-economic scale, the Arab community represents an astounding majority in the lowest clusters in 2004: 80% of the Arab Authorities are in the first (lowest) cluster, 93% in the second and 87% in the third.⁶⁰

In 1997, as a result of the Ministry of Education's failure to implement programs in the most socio-economically weak sector – the Arab community - the Follow-Up Committee on Arab Education in Israel petitioned the High Court, demanding equal treatment for Arab and Jewish children and for the programs to be implemented according to stated need, not race. The petition emphasized that intentionally excluding Palestinian students from these programs was a clear violation of their right to equality.⁶¹

The Ministry of Education responded in a somewhat contradictory manner. On the one hand, the Ministry admitted historically excluding Arab schools from enrichment programs, and declared that it would rectify this wrongdoing. The Ministry set a goal to implement 20% of the budget to the Arab community within 5 years. This percentage, however, indicated the relative percentage of the Arab community in Israel generally, not the higher percentage of the Arab community that is socio-economically most needy – that is, occupying the lowest rankings of the government's statistical rankings. In response, the petitioners dismissed the proposal as "exceedingly insufficient," to which the Ministry responded, in July 2000, by dismissing the case. This decision, in the words of Dr. Jabareen, "not only endorsed discrimination for the additional five years requested by the government to fully implement 'equality,' but it also perpetuated substantive inequalities between Jewish and Palestinian children by denying the latter any compensation for past/present discrimination."⁶²

7. Other Discriminatory Legislation and Legislative Drafts⁶³

The characteristic of Israel as a Jewish state by definition creates less favorable classifications for non-Jewish populations. For example, Israeli law grants special, quasi-governmental standing to various Zionist bodies, whose mandates cater exclusively to Jews, such as the World Zionist Organization and the Jewish Agency. In addition, certain laws recognize Jewish educational, religious and cultural practices and institutions whose aims are defined in strictly Jewish terms while not accounting for the identity of the sizeable Palestinian Arab indigenous community. These laws include: **The Chief Rabbinate of**

⁵⁹ THE MOSSAWA CENTER, REPORT ON THE SOCIAL, ECONOMIC AND POLITICAL STATUS OF ARAB CITIZENS OF ISRAEL, (2001).

⁶⁰ THE MOSSAWA CENTER, THE 2005 STATE BUDGET: IMPLICATIONS FOR THE ARAB CITIZENS OF ISRAEL (December 2004) (in Hebrew).

⁶¹ Jabareen II, *supra* 53, at 23.

⁶² *Id.* at 24.

⁶³ This chapter only contains a select list of discriminatory legislation, including from laws that have been passed, amendments to these laws, and legislation currently under discussion (May 2005). An Adalah report to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance (August/September 2001), catalogues 20 laws that discriminate against the Palestinian minority.

Israel Law (1980), The Flag, Emblem and Anthem Law (1949), and The State Education Law (1953) Amendment (2000).⁶⁴

In addition to the laws mentioned in this chapter, a number of draft laws are currently under consideration that would, if passed, further deepen the legal divide between Jewish and Palestinian Arab citizens and continue to affirm Palestinian Arab citizen's second-class standing.

(i) Government Employment (Introduced by Ayub Qara, Likud)

The Government employment draft law would legislate preference in government/ civil service to those citizens who have either served in the military or performed national service. As Arabs are exempt from serving in the army, this proposal would disproportionately disadvantage their access to civil service jobs. Under this law, access to public employment would be contingent upon an unrelated duty.

(ii) National (Civilian) Service Law Suggestion (several MKs from Likud, Labor, and Mafdal)

Currently, the national (civilian) service provides an option to military service for those populations otherwise exempt from military service. The National (Civilian) Service Law draft will require all citizens to provide civilian service in their community. The draft does not account for the position of the Palestinian Arab leadership, including of members from the High Follow-Up Committee for Arab Citizens and Arab MKs, who rejects civilian service for Palestinian Arab citizens, as it could mean fighting their brethren. The suggested civilian service would be for one year, doing such work as volunteering in schools, the police force, or hospitals. The state would decide and control where a citizen could volunteer his or her services at its discretion. Thus, this "civilian service" is not designed to cater to the interests of the Palestinian Arab community in full equality, but would serve as a tool to promote the Jewish character of the state only.

The Palestinian Arab community is also discriminated against in the allocation of resources because they generally do not partake in military service, due to historic legal exemptions. Housing, funding, educational provisions, employment opportunities and more are contingent on military service. The right of the community to equal treatment in these areas becomes contingent upon an unrelated duty of military service. Moreover, the Palestinian Arab community (a) was not involved in designing the security system, which is premised on the notion that the Palestinian Arab community is itself a threat to the security of the state; and (b) it has not consented to serve within such a security system.

⁶⁴ Historical Background: Discriminatory Laws, Adalah, at <http://www.adalah.org/eng/backgroundlegalsystem.php>

CHAPTER 2 SOCIO-ECONOMIC STATUS

Israel, ranked 22 out of 177 countries by the UN Human Development Index,¹ has generally developed into an advanced industrial economy, with highly sophisticated exports and a high standard of living. The Palestinian Arab community in Israel, however, has been largely left behind and has not been fully included in the country's overall development. Although the Israeli government has officially recognized the significant gaps in socio-economic levels between the Palestinian Arab and Jewish populations, programs to address these gaps have been largely symbolic in nature and inadequate in addressing the pressing issues of poverty, unemployment, underdevelopment, and lack of resources for education and infrastructure.

This chapter reviews the main findings of the Mossawa Center report on the 2005 State Budget and the Social Economic Status of the Palestinian Arab Citizens," which was written in response to Knesset discussions about the suggested 2005 State Budget. This chapter highlights employment and higher education as the main tools needed to alleviate the cycle of poverty and unemployment within the Palestinian Arab community. The report relies on surveys and research conducted and published in the last year, analyzed with a view towards the status of the Palestinian Arab citizens and Local Councils. The Mossawa Center released the report more than a year after the publication of the Or Commission report², which discussed the socio-economic discrimination against the Palestinian Arab community and demanded that the government make concrete changes in its relations with its Palestinian Arab citizens. However, the 2005 Budget submitted to the Knesset by the government ignores many of the recommendations of the Or Commission to contend with these gaps and act to close them.

For example, the Ministry of Treasury's policy faults Palestinian Arab citizens for their high levels of poverty and unemployment, and is determined to cut unemployment allowances in order to encourage people to work. Simultaneously, the government does not fulfill its obligation to create employment opportunities and provide vocational training for Palestinian Arab citizens.

In addition, insufficient support for the Palestinian Arab educational system has contributed to lower levels of educational achievement and professional training. As a result, the Palestinian Arab labor force is highly concentrated in lower-paying employment. Inequality in budget allocations for infrastructure and development reflect a failure on the part of the Israeli government to live up to its own developmental budget commitments. Using the State Budget to economically marginalize and discriminate against approximately 20% of the state's citizens inflicts pain on the poor, unemployed and their families, whilst stunting the growth of the state. Under-development and poverty are most severe in the unrecognized villages in the Naqab (Negev) and Galilee.

Also, the status of Palestinian Arab women, marginalized both as Palestinian Arab citizens within the Israeli state and as women within the Palestinian Arab community, is reflected in their low participation in the labor market. Transformation of the socio-economic reality of

¹United Nations Development Programme (UNDP), Human Development Report 2004: Israel fact sheet, at http://hdr.undp.org/statistics/data/country_fact_sheets/cty_fs_ISR.html. Israel's Human Development Index rating places it in the high human development tier and first in the region. *Id.*

²Adalah, Marwan Dalal, October 2000: Law and Politics before the Or Commission of Inquiry (July 2003), at 11. *See also*, Or Commission of Inquiry, Official Summation (2004) (in English) (on file with author) (last visited October 1, 2004).

Palestinian Arab women will contribute to a transformation of the entire Arab community in Israel. This is impossible, however, without government investments in vocational training, encouragement towards higher education, access to employment, public transportation infrastructure to villages, and support for women's inclusion in political decision-making on the municipal and national levels.

The socio-economic realities of Palestinian Arab citizens are reviewed at both the macro and micro levels. On the macro level, analysis of the status of Local Councils addresses funding levels for education, infrastructure and development. About 71% of the Palestinian Arab population in Israel lives in towns and villages separate from the Jewish urban areas in the center of the country, with the highest concentration of Palestinian Arab villages (46%) in the Western Galilee. Each town or village is administrated by an elected Local Council, which is responsible for public education, health and welfare services, public transportation and road maintenance, as well as agricultural and industrial development, and environmental protection. Local Councils are funded by budgets from governmental ministries as well as the collection of municipal tax revenues.

On the micro level, analysis of the status of the Palestinian Arab community looks at the family unit, which provides a gauge of the quality of life for women and children, as an important indicator for the overall status of a population.

1. Poverty

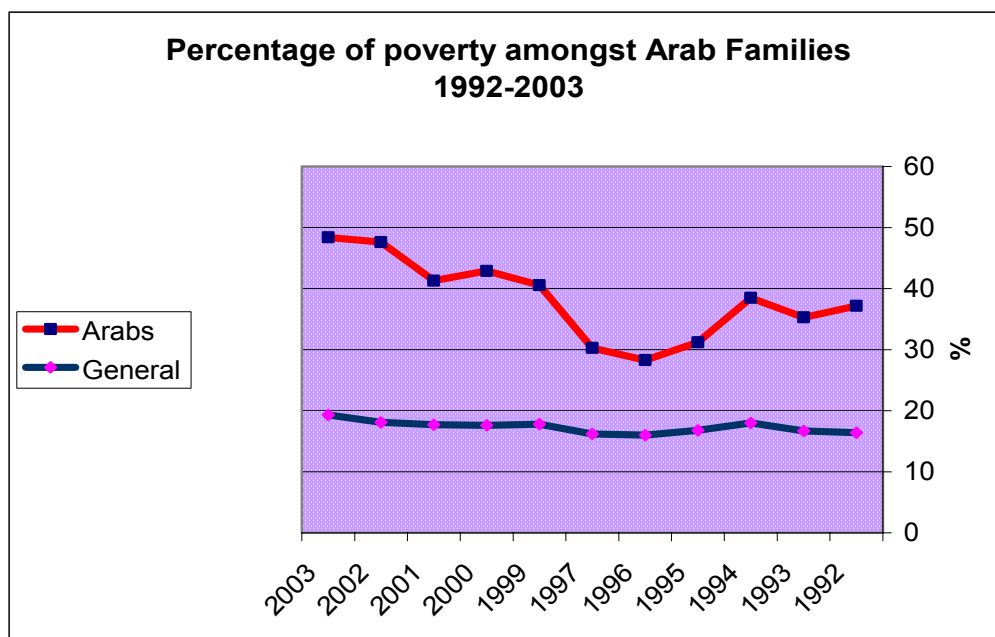
The 2004 Poverty Report, published by the National Insurance Institute in November 2004, portrays the overall grim socio-economic situation in Israel as drastically affecting the Palestinian Arab population. The economic situation of the Palestinian Arab community has grown more desperate in the last three years, with the gap between the Palestinian Arab and Jewish communities continually growing. More than any other community living in Israel, the Palestinian Arab population has suffered from the increase in unemployment, and the cutting of the welfare budget, which began in August 2003, as well as discrimination in the transfer of payments (see sections below for further discussion.) All these factors have resulted in the steady decrease in income of Palestinian Arab families that in many cases have no other alternative sources of income.³

The number of Palestinian Arab families living in poverty has increased from 47.6% of all Palestinian Arab families (112,300 families) in 2002 to 48.4% of all Palestinian Arab families (119,700 families) in 2003. These figures can be compared to the overall percentages of poor families in Israel, which was 18.1% in 2002 and 19.3% in 2003. Furthermore, the percentage of poor Jewish families in 2002 was 13.9%, compared to 14.9% in 2003. This indicates that poverty amongst Palestinian Arab families in Israel is 3.2 times that of Jewish families⁴ (see graph 1). While it is true that the average Palestinian Arab household has 5.06 persons as compared to the average Jewish household that on average has 4.7 persons, this slight gap does not explain the significant difference in standard of living and poverty levels between the two populations in the same country.

³ AMIN FARES, MOSSAWA CENTER, THE STATE BUDGET AND THE PALESTINIAN ARAB CITIZENS IN ISRAEL 25(2004).

⁴ *Id.* at 26.





Graph 1: Percentage of Palestinian Arab families living in poverty 1992-2003⁵

In the Mossawa Center's State Budget report, economist Amin Fares notes that though these poverty statistics are based on surveys published by the National Insurance Institute and gathered by the Central Bureau of Statistics they do not include the entire Palestinian Arab population living in Israel. These figures most likely exclude Palestinian Arab citizens living in very small, often unrecognized villages as well as Palestinian Arabs living in mixed Palestinian Arab-Jewish cities. These segments of the Palestinian Arab population suffer from an even harsher socio-economic reality than those most likely represented in these studies.⁶

i) Child Poverty

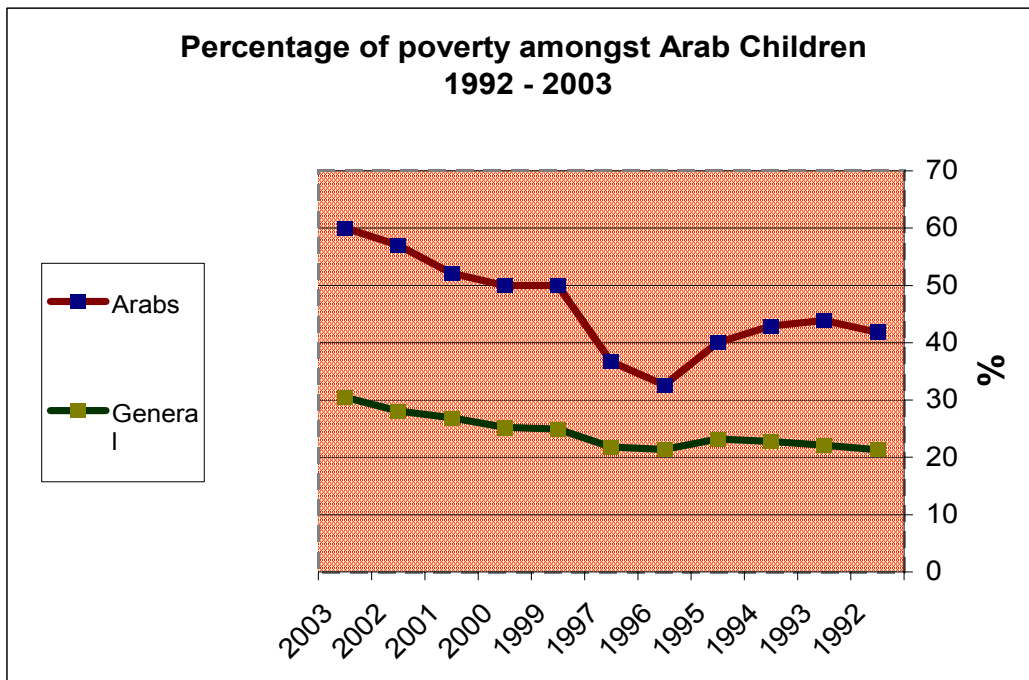
The number of children living in poverty in Israel grew from 617.6 thousand in 2002 to 652 thousand children in 2003. Following a Mossawa Center petition, the research department at the National Insurance Institute supplied revised data about the percentage of Palestinian Arab children living in poverty. The data indicated that while 30.8% of all children in Israel are living in poverty, 57.5% of all Palestinian Arab children are living under the poverty line. That means that even though Palestinian Arab children only make up 30% of the population of children in the country, they represent 50% of the children living in poverty⁷ (see graph 2).

Fares estimates that the actual number of poor Palestinian Arab children living in Israel in 2002 and 2003 is significantly higher than those accounted for in the National Insurance Institute's data since small and unrecognized villages are not included.

⁵ *Id.* at 27.

⁶ *Id.* at 26.

⁷ *Id.* at 28-30.



Graph 2: Percentage of poverty amongst Palestinian Arab children 1992-2003⁸

For poor children whose parents are unemployed or employed in low-paying positions, a major source of support comes from monthly child allowances allocated to all children in Israel through the National Insurance Institute. Child allowances to Palestinian Arab children were cut by 24%, in accordance with an emergency economic package passed by the Knesset in 2002. The economic package authorized a 4% cut for all Israeli children, and an additional 20% cut for children whose parents did not serve in the army. As Palestinian Arabs are legally exempt from serving in the army, this measure primarily targets Palestinian Arab children to bear the brunt of the budget cut. According to a report prepared by the National Insurance Institute Research Center, this cut increased child poverty in Israel by 25%. Also, the 2003 data on child poverty does not reflect the further budget cuts that occurred in that year and those that continued afterwards with the general cuts of the National Insurance Institute – and in particular the child allowances cuts.⁹ Allowances cuts, particularly child allowances, reduce the opportunities to which every child in this country is supposed to be entitled and which each child needs in order for survival and social integration. These allowances fulfill basic needs for impoverished families and their children.

Another troubling indicator of poverty in the Palestinian Arab community, reflected in The Welfare Survey conducted by the Central Bureau of Statistics in 2003, reveals that a significant number of Palestinian Arab citizens aged 20 and older reported that they forfeited food, heat, medicine, clothing, dentistry and more due to their economic distress.¹⁰

⁸ *Id.* at 28.

⁹ Mossawa Center, Press Release, *Budget Cuts Institutionalize Discrimination Against Children*, June 6, 2002, available at <http://www.mossawacenter.org/en/pressreleases/2002/06/020606.html>.

¹⁰ BUDGET REPORT, *supra* note 2, at 31.

ii) Infant mortality rate

The distressful socio-economic situation afflicting the Palestinian Arab community is not only represented by poverty indicators, but can also be seen in indicators related to health and mortality. A Ministry of Health report published in October 2003 showed that infant mortality in the Palestinian Arab community was double that of the Jewish community. About 9 infant deaths were recorded for every 1,000 live births in the general Palestinian Arab population, compared with 4 deaths for every 1,000 recorded in the Jewish population. In 2000, the Infant mortality rate was 8.6 deaths recorded in the Palestinian Arab population, compared to 4.5 in the Jewish population. Strikingly, in the Naqab, the Bedouin community has an infant mortality rate of 18.7 deaths per 1,000 recorded births. This indicates that while the national average is improving, the situation in the Palestinian Arab population is getting worse.¹¹

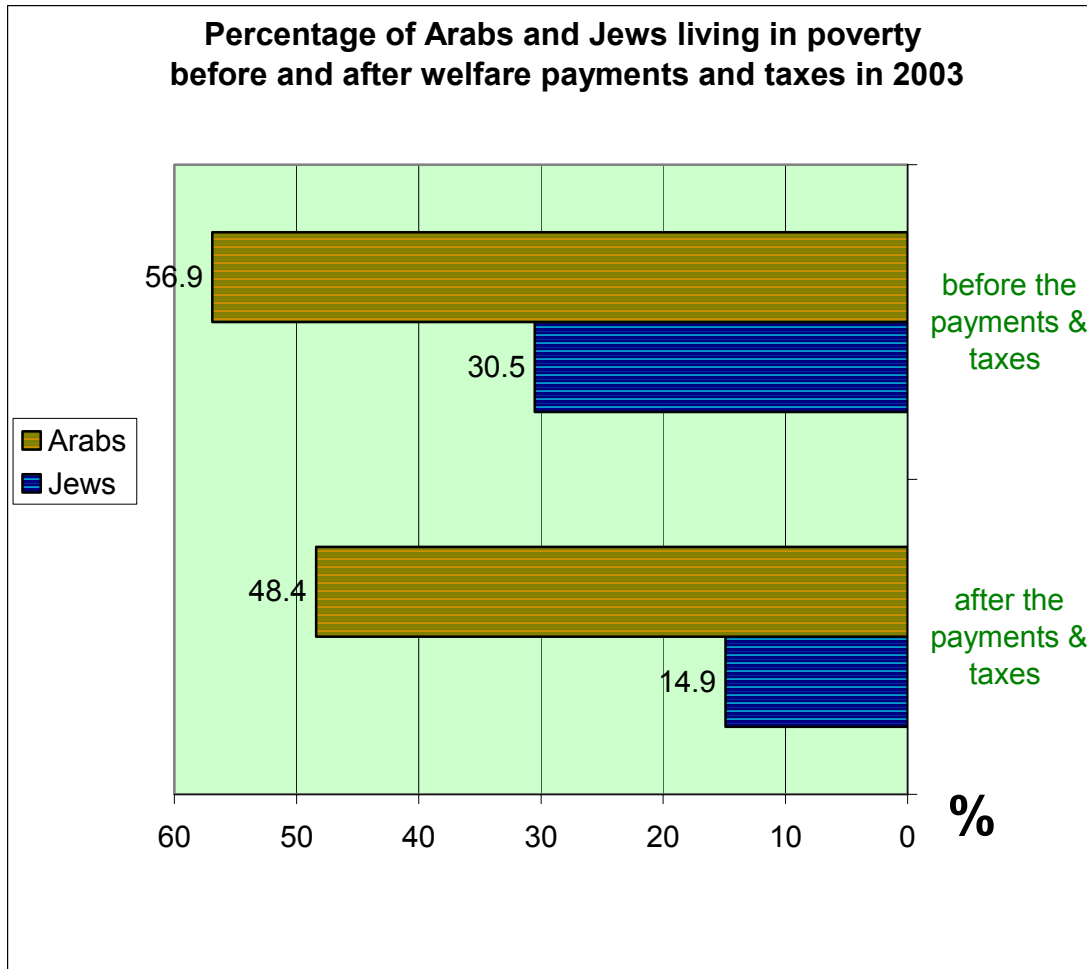
2. Social Services and Palestinian Arab Local Councils

Since 2001 there has been a significant increase in the number of Palestinian Arab families applying for social welfare services. Data from a random representative survey conducted by the Social Welfare Services in Palestinian Arab Local Councils in cooperation with the Mossawa Center shows that the number of applications for welfare services increased by over 30% between the years 2001 and 2003.¹² Palestinian Arab Citizens living within Palestinian Arab villages receive only 8% of the Welfare Ministry's budget. In addition, the base economic position from which members of the Palestinian Arab community start before welfare payments is much lower than that of Jewish residents. Hence, state assistance enabled over half of the Jewish families on welfare to escape the cycle of poverty, while only 15% of Palestinian Arab families were able to live above the poverty line after receiving welfare¹³ (see graph 3).

¹¹ *Id.* at 26.

¹² *Id.* at 44.

¹³ *Id.* at 31.



Graph 3: Percentage of Palestinian Arabs and Jews living in poverty before and after welfare payments and taxes in 2003¹⁴

The Arab Local Councils are generally the main service providers for their communities and absorb the largest number of employees in the Palestinian Arab community. The Central Bureau of Statistics (CBS) regularly assesses the socio-economic level of Local Councils in Israel, as requested by the Ministry of the Interior. The survey ranking is based on several factors including demographics, levels of education, revenues and income, and governmental subsidies. Based on these factors, the CBS classifies 210 Local Councils into 10 socio-economic levels, with 1 representing the lowest level, and 10 representing the highest.¹⁵

This socio-economic formula classified the 82 Palestinian Arab Local Councils at the bottom of the scale with 80% of the Palestinian Arab Local Councils in the first (lowest) cluster, 93% of all Local Councils in the second are Arab and 88% in the third. Almost 45% of the Palestinian Arab communities are in the lowest two clusters, and 97% are in the lowest four clusters. The Palestinian Arab citizens in the Naqab are centralized in the first cluster, meaning they are in the lowest socio-economic levels.¹⁶

Government offices claim to base funding allocation decisions largely on the outcomes of this formula. While most Palestinian Arab Local Councils fall in the poorest clusters,

¹⁴ *Id.*

¹⁵ *Id.* at 49.

¹⁶ *Id.* at 52.

disproportionately low budget allocations and development funding reveals the governmental discrimination. This structural discrimination has led to widespread lack of development in the Palestinian Arab Local Councils, including insufficient educational facilities, insufficient public transportation, outdated sewer and water infrastructures, and low levels of industry. The Palestinian Arab Local Councils have been requested to implement recovery plans, which include further cuts to services and the termination of employment to hundreds of staff. The cuts and recovery plans are paralyzing the Local Councils' work and preventing them from providing basic services to their constituents and paying salaries to their employees.¹⁷

Unemployment benefits qualifications discriminate against the Palestinian Arab community, particularly Palestinian Arab women. Eligibility for unemployment benefits is for “an insured, unemployed person,” who is “a resident of Israel, or temporary resident, who is an employee aged 18 – 65, or a soldier, mobilized from regular service less than one year ago.” In practice, eligibility is conditional on the individual actually being over 20, and only in limited situation applies to individuals between 18 and 20 years of age.¹⁸ Since Palestinian Arab citizens are legally exempt from serving in the military, they are most likely group of 18 to 20-year olds to rely on such benefits. In addition, discharged soldiers are entitled to additional grants beyond standard unemployment benefits. Many in the Palestinian Arab community in Israel have criticized tying the right to social and economic benefits to the performance of a duty that is unrelated to seeking employment.¹⁹

3. Employment

Unemployment and low levels of employment are serious issues for the Palestinian Arab citizens of Israel. According to the Central Bureau of Statistics, 12% of the Palestinian Arab workforce was unemployed in 2000, compared to 7.6% of unemployment in the Jewish population. Since then unemployment in Israel has risen to 10.3%. Many Palestinian Arab citizens have lost employment in the Jewish community due to distrust and prejudice associated with the on-going Israeli-Palestinian conflict. Mossawa Center economist Amin Fares calculates that unemployment is even greater in the Palestinian Arab community than reported by the CBS figures, and estimates that close to 20% of the Palestinian Arab workforce is currently unemployed.²⁰

Historically, Israel developed into a dual labor market economy, divided along ethnic lines, which forced many Palestinian Arabs from working in anything other than construction, agriculture and low-paying services. In 1948 the Palestinian Arabs who remained within the borders of the new State, became a labor-market minority, and to this day, while constituting 20% of the population, most Palestinian Arab citizens in Israel are still relegated to jobs at the very bottom of the labor market ladder due to social, economic, and political factors.

¹⁷ Mossawa Center, The 2005 State Budget and the Palestinian Arab Citizens: A Socio-Economic Report, English Abstract, (Dec. 2004), at 8-9.

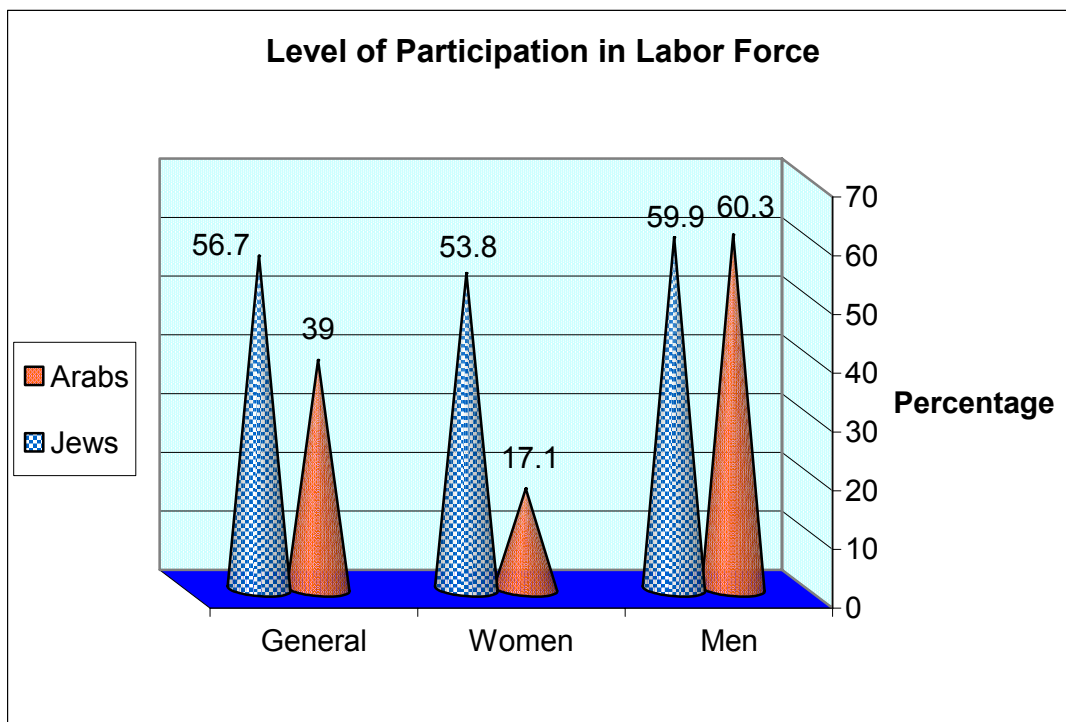
¹⁸ National Insurance Institute of Israel, Unemployment insurance, available at http://www.btl.gov.il/English/btl_indx.asp?name=newbenefits/unemploy.htm (last visited May 16, 2005).

¹⁹ Working Group on the Status of Palestinian Women Citizens of Israel, *NGO Alternative Pre-sessional Report on Israel's implementation of the United Nations Convention on the Elimination of all Forms of Discrimination Against Women* (January 2005), at 35.

²⁰ MOSSAWA CENTER, THE PALESTINIAN ARAB CITIZENS OF ISRAEL: STATUS AND IMPLICATIONS FOR THE MIDDLE EAST CONFLICT 15-16 (2003).

According to an October 2004 survey published by the National Insurance Institute analyzing income averages and wages, Palestinian Arab citizens' average monthly income over the last year was 63% of the average income for Jewish citizens – NIS 3,991 (EUR 724.6) monthly compared to NIS 6,314 (EUR 1146), respectively. Analysis of the average monthly incomes of the self-employed was similar: average income levels in Palestinian Arab localities were 73% that of income levels in Jewish localities.²¹

Every year, 10,000 new Palestinian Arab citizens join the labor market but these numbers do not include the Palestinian Arab women who are involved in the unofficial workforce, including seasonal agriculture, house cleaning, care-giving for children and the elderly. Only 17% of Palestinian Arab women are employed, compared with 53% of Jewish women significantly reducing overall Palestinian Arab labor market participation rates, which are 39% compared to 57% Jewish participation in the labor market (see graph 4). Many Palestinian Arab women are unable to work outside of their villages, where opportunities are nearly non-existent.²² Where Palestinian Arab men once were heavily employed in local textile workshops, these job opportunities have primarily been lost to cheaper wage laborers in Jordan since the 1994 peace agreement facilitated the opening of free trade zone for textile factories in Jordan.²³ Palestinian Arab women make up the majority of the 15,500 workers out of 45,000 who lost their textile industry jobs between 1995 and 2002.²⁴



Graph 4: Levels of Employment for Palestinian Arab and Jewish Men and Women

Source: Central Bureau of Statistics

²¹ *Id.* at 4.

²² *Id.* at 15-16.

²³ Working Group on the Status of Palestinian Women Citizens of Israel, *NGO report: The status of Palestinian women citizens of Israel* (July 1997), at 95-98.

²⁴ CEDAW Alternative report, *supra* note 19, at 36.

4. Civil Service

In 2000, the Knesset approved an amendment to the Public Services Law, obligating governmental offices and companies to have fair representation of Palestinian Arab citizens amongst their employees. Despite this, the number of Palestinian Arab employees in governmental offices decreased from 2,818 in 2002 to 2,798 in 2003. The percentage of Palestinian Arab employees in governmental offices remained at 5% even though 37% of the community holds academic degrees. In 2003, only 193 new Palestinian Arab employees were hired into public positions, compared to 251 in 2002 and 315 in 2001.²⁵

The past four years have also shown a decrease in the number of women who were hired for civil service positions. Of all government employees, 63% are women, but Palestinian Arab women only represent 31% of all Palestinian Arab government employees. In 2003, there were 66 Palestinian Arab women newly employed by the government, compared to 80 women in 2002, 90 in 2001 and 93 in 2000.²⁶

5. Education

For the most part, Palestinian Arabs and Jews in Israel attend separate schools, generally with different curricula, languages of study, school hours, and quality of education. Inequality in governmental support for public education in the Palestinian Arab community has led to classroom shortages, a higher level of unqualified teachers, insufficient educational and guidance counselors, and lack of supplemental facilities, such as libraries, science labs, and computer rooms. The Ministry of Education estimates that as many as 36% of Palestinian Arab classrooms are unfit for study and there is a classroom shortage of an estimated 1,500 classrooms in Palestinian Arab localities.²⁷

Inequitable support of Palestinian Arab education has contributed to serious gaps in performance between Palestinian Arab and Jewish students. According to a Human Rights Watch report on discrimination against Palestinian Arab children in Israel, the average drop out rate for Palestinian Arab students, by the age of 17, is 31.7%, compared with a 10.4% drop-out rate for Jewish students.

Bagrut (matriculation) passing rates are 27.5% for Palestinian Arab students, in comparison to 45.6% of Jewish students.²⁸ According to the Central Bureau of Statistics, 35% of Palestinian Arab citizens do not make it to high school, and 8% do not have any formal education at all, the majority of whom are women.²⁹ About 9.9% of Palestinian Arab girls do not attend school, compared with 3.3% for Jewish girls.³⁰ They also have the highest rate of illiteracy of any group in Israel, 14.7%, compared with 6.2% for Palestinians Arab men and 4.5% for Jewish women.³¹

²⁵ BUDGET REPORT, *supra* note 2, at 60-61.

²⁶ *Id.* at 62.

²⁷ IMPLICATIONS REPORT, *supra* note 20, at 21.

²⁸ HUMAN RIGHTS WATCH, SECOND CLASS: DISCRIMINATION AGAINST PALESTINIAN ARAB CHILDREN IN ISRAEL'S SCHOOLS (2001).

²⁹ Central Bureau of Statistics, The Palestinian Arab Population in Israel, (July 2002).

³⁰ CEDAW Alternative report, *supra* note 19, at 21.

³¹ *Id.*


Higher education is crucial for escaping the cycle of unemployment and poverty, but in 2003 Palestinian Arab citizens' accessibility to higher education was further restricted. Universities and the Ministry of Education cancelled the *Mitsraf* system used for acceptance to universities, claiming that the Palestinian Arab candidates benefited from it more than they should.

Major discrimination against Palestinian Arab citizens can be seen in the percentage of students accepted every year among those who apply to universities across Israel. About 15.1% of all applicants to universities in the 2002-2003 academic year were Palestinian Arab students, while 81% were Jewish. Only 12.6% of the students accepted were Palestinian Arab, while the percentage of students rejected that were Palestinian Arab was 29.8%.³²

Among Palestinian Arab students accepted, some Palestinian Arab villages, such as Furedis and Jaser al-Zarkas, were underrepresented. Though the Central Bureau of Statistics does not provide data on the matter, socio-economic disparity affects Palestinian Arab university students' ability to stay in school as well as to perform well while in school. While 9.8% of Palestinian Arab students are accepted into B.A. programs, only 4.8% are accepted to M.A. programs, and 3.2% for PhD programs. The dropout phenomenon is prominent among Palestinian Arab students.³³

Surprisingly, the number of Palestinian Arab women students in Israel is greater than that of Palestinian Arab students, in part because the bulk of Palestinian Arab women study in Israel, while many Palestinian Arab males choose to study abroad. Palestinian Arab women make up 56.1% of all Palestinian Arab students for B.A degrees, however that number goes down to 45.1% of Palestinian Arab students accepted to M.A programs, and drops to 25.8% when looking at Palestinian Arab women in PhD programs. The number of Palestinian Arab women in universities is steadily decreasing along with the number of Palestinian Arab students being accepted to Israeli universities overall.³⁴

6. Underdevelopment and the State Budget

The 2005 State Budget reflects a continuing policy of curtailed government budgets, cuts in the National Insurance Institute's allowances, and a reduction in the number and salary of governmental and Local Council employees. The government's demand for its Palestinian Arab citizens to find work obligates a commitment to help create the conditions necessary to make this possible. In the case of the Palestinian Arab community, the government has delayed development planning processes, prevented designating budgets to establish industrial zones and new neighborhoods, discriminated against Palestinian Arab localities from receiving national priority status (which helps develop industry), and has failed to ensure accessibility to public transportation, which would allow women and the unemployed to reach employment centers. 

According to a governmental decision made in October 2000, between 2001 and 2004 the government committed to financing a Development Plan ("The 4 Billion Shekel Plan") for the Palestinian Arab community. To date, this plan has not been fully implemented. The Palestinian Arab citizens received less than 5% of the overall Development Budget during the

³² BUDGET REPORT, *supra* note 3, at 76.

³³ *Id.* at 80.

³⁴ *Id.* at 83. Also the Central Bureau of Statistics, Report on Higher Education (2004)

past few years; Instead of following through with the NIS 4 Billion (EUR 736 million) Plan over 4 years the government invested less than 2.7 billion of the 60 billion shekels allocated in the Development Budget over the four year period.³⁵

Since 1998, despite the existence of a suitable budget line, the Ministry of Industry and Trade did not develop even one of 16 promised industrial zones in Palestinian Arab cities. The two largest cities, Nazareth and Umm al Fahm, continue to be ignored and face bureaucratic difficulties in the process of establishing industrial zones. In the case of the village of Illut, investors paid their fees to governmental offices in order to finance the development of an industrial zone, yet two years have since passed and the Ministry of Industry has only now begun the project.³⁶

Similarly, the Ministry of Housing did not fulfill its commitment to plan and build 40,000 new housing units in Palestinian Arab localities. The Ministry of Education did not allocate the budget to which it committed in the Development Plan to implement its Five Years Plan for the construction of new classrooms. The Ministry of Agriculture and the Ministry of Health have not allocated the funds they committed to developing projects in Palestinian Arab villages, despite the small amounts committed. Plans that were approved by the government in 2000 and 2001 obligate the government to allocate one billion and 470 million NIS in the 2005 State Budget, which comprise 10% of the annual Development Budget. But, ignoring all previous promises to fund unimplemented projects, the amount that the government has allocated to address its Palestinian Arab Citizenry, almost 20% of its populace, in 2005 is about 400 million NIS, barely 3% of the development budget.³⁷

7. Vulnerable Palestinian Arab Population: The Bedouin in the Naqab (Negev)

Poverty, unemployment, and under-development are common throughout the Palestinian Arab community. However, under-development is especially extreme for the Bedouin in the Naqab.

Currently, 140,000 Palestinian Arab-Bedouin citizens reside in the Naqab.³⁸ These citizens, who ceased their nomadic nature before the establishment of the state of Israel, have a pastoral lifestyle, supporting themselves primarily by working their lands as farmers and herders. Approximately 76,000 of them reside in 38 "unrecognized" and 7 newly recognized villages (that are still in need of planning), while the rest live in 7 state-established townships. Bedouin citizens of the Naqab reside on only 1.3% of the land.³⁹

These citizens experience the brunt of Israel's discriminatory socio-economic and legal policies. Following the 1948 war, 80% - 85% were expelled or fled outside the borders of Israel, while the remaining population was displaced and concentrated by the government into a restricted area called the *Siyag*, a policy that continued during the 50s and 60s.⁴⁰ Originally making their livelihoods on 12,600,000 dunums of land in the Naqab,⁴¹ the

³⁵ Budget Abstract, *supra* note 17, at 8-9.

³⁶ *Id.* at 3.

³⁷ *Id.* at 6-7.

³⁸ Regional Council of the Unrecognized Villages, *Research*, at www.rcuv.org (last visited May 5, 2005).

³⁹ *Id.* at *Introduction*.

⁴⁰ Hana Hamdan, *The Policy of Settlement and 'Spatial Judaization' in the Naqab*, *Adalah Newsletter*, Vol. 11, March 2005, at 1.

⁴¹ The Palestinian Arab Association for Human Rights, *The Palestinian Arab Bedouin of the Naqab*, at <http://www.PalestinianArab.org/factsheets/factsheet3.htm> (last visited May 10, 2005)

Bedouin today are fighting to retain the ability to merely live and raise crops and herds on 180,000 dunums (in the 45 villages). The Bedouin in both the 38 unrecognized villages, the 7 recently recognized villages and the 7 planned townships currently live and work on a total of 240,000 dunums – but claim ownership of 850,000 dunums.⁴² There are currently 3,000 petitions by the Bedouin regarding the right to remain on their lands, in many cases the same lands planned for the pending resettlement.⁴³

The State limits the establishment of health clinics in the unrecognized villages. As of July 2003, there were only 8 working clinics total in 8 of the 45 villages (including both unrecognized and recently recognized villages).⁴⁴ There were no pharmacies in any of the villages. In comparison, one of the villages, Wadi El-Na'am, was not provided a health clinic for its population of 4,500, whereas Moshav Nevatim, a Jewish village in the Naqab with 600 people, has a clinic that is open more regularly than those in the unrecognized villages. Successful advocacy efforts led by the Mossawa Center and other NGOs resulted in the recent opening of a health clinic in Wadi El-Na'am. However, due to the village's hazardous proximity to both the major toxic waste dump in Ramat Hovav and electricity plant overhead – both of which were established after the existence of the stable village community – the government will not allow the employment of a physician, presumably due to increased risk of medical liability.

These conditions have a drastic impact on the health of the population, seen in infant mortality rates (as previously mentioned), and in the 50% rate of hospitalization of infants living in the unrecognized villages during the first year of their lives.

Although the primary provider of electricity for Israel, the Israel Electric Corporation, claims to service the entire country, the residents of the unrecognized villages have yet to be allowed to connect to the electrical grid. Some villages run electric generators, but these are sufficient for lighting purposes only. In the summer, temperatures in the tin roofed shacks run as high as 55C, exposing children to overheating and dehydration. In the winter, children and elderly people are susceptible to illness brought on by cold and wetness, and many children suffer burns from heating fires.⁴⁵

The Bedouin in the unrecognized villages are denied access to official water connections, and so turn to the use of containers or independent connections, if possible, to support their families. Consequently, the lack of clean running water poses additional health problems, as many unrecognized and newly recognized villages rely on often dry and sometimes contaminated sources of water. Lack of sewer systems leads to contamination of the local water supply, resulting in outbreaks of diseases, such as jaundice and diarrhea among children. Some villages collect rainwater, and many villages transport water from nearby localities, resulting in occasional water shortages and the logistical difficulties of transportation. Health problems in these villages are complicated by the lack of local health clinics serving the population.⁴⁶

Aggressive government tactics to force this population of nearly 70,000 to move from their

⁴² Regional Council of the Unrecognized Villages, *supra* note 33.

⁴³ The Mossawa Center, *The Disengagement Plan from the Gaza Strip: Implications for the Status of the Palestinian Arab Citizens of the Naqab* (2005) (in Hebrew).

⁴⁴ ORLY ALMI, *PHYSICIANS FOR HUMAN RIGHTS, NO MAN'S LAND* (July 2003).

⁴⁵ *IMPLICATIONS REPORT*, *supra* note 20, at 18-20.

⁴⁶ *Id.* at 18-20.

lands has multiplied the hardship of the “unrecognized” Bedouin. Between February 2002 and March/April 2003, the Israel Land Administration dusted thousands of dunams of Bedouin crops, people and animals with toxic chemicals, sending dozens of the residents to the hospital. Between 2001 and May 2003, the government destroyed 44 homes and hundreds more remain tagged for destruction. The government set a new precedent in 2003 with the demolition of two Mosques in the villages of Tal al Milah and Al-Zaarura, in the first incidents of destruction of a Muslim holy place in the Naqab.⁴⁷

⁴⁷ Mossawa Center, Press Release: Bedouin mosque demolished, Feb 3, 2003 at <http://www.mossawacenter.org/en/pressreleases/2003/02/030205.html>.

CHAPTER 3 POLITICAL PARTICIPATION

Official repression of the Palestinian Arab community in the years immediately following the establishment of the state Israel undermined any efforts at political mobilization. The 1948 War led to the emigration of most of the political leaders and intellectuals, damaging the foundations of social organizations, political movements, and overall political infrastructure. As the population started to rebuild these foundations, the military's strict regulations curbed the formation of new political parties.

From 1948-1966, the Palestinian Arab community was governed by a military administration that severely repressed speech, association, travel and political organizing. Throughout this era, Palestinian Arab politics in Israel were dominated and represented by Arab lists that were appointed and sponsored by Mapai, an early Zionist-Socialist labor party until its merger with the Labor party in 1968,¹ and by the Jewish-Arab Communist Party. Mapai developed these lists on the basis of family leadership and personal connection. In exchange for political appointments and other favors, the Arab lists were responsible for raising Arab support for Mapai through successful voter mobilization efforts. However, the elected Arab MKs served largely as token figures with minimal political power and lacked the clout to effectively advocate on behalf of the Palestinian Arab community.

Since the establishment of the State, the Communist Party was the only legal party that consistently represented the Palestinian Arab community in Israel. The Jewish and Palestinian Arab members of the party were active against the military rule and endured persistent harassment by security forces. In 1977, the Communist Party along with independent groups in the Jewish and Arab communities created Hadash, or the Democratic Front for Peace and Equality (DFPE). DFPE, which advocates for the recognition of the Palestinian Arab population as a national minority with equal national and civil rights,² was the main political force in the Arab community during the 1970s, and continues to get its support. In the last parliamentary elections in 2003, DFPE received 26% of the Palestinian Arab community's vote, more than any other party.³

In the tradition of the Communist Party, the DFPE in cooperation with independent groups within the Palestinian Arab community helped establish several organizations, including the National Committee of Heads of Arab Local Councils, the National Union of Arab Students, and the High Follow-up Committee for Arab Citizens. During the 1970s and 80s, the Labor party and other leftist parties began to include Arab citizens in their parties, increasing their influence in the Arab population. However, since the 1976 Land Day and the rise in independent Arab political parties in the 1980s and 1990s, the Arab-Palestinian community in Israel has begun to shift its political support from progressive Zionist parties to independent Arab parties in Israel.

Palestinian Arab university students in Israel have been instrumental in raising the political consciousness in the Arab community. University campuses have provided an ideal backdrop to inspire debate and forge confident Arab leadership. The majority of the Arab

¹ Jewish Virtual Library, Parties: Mapai, at <http://www.jewishvirtuallibrary.org/jsource/Politics/partytoc.html> (last visited May 10, 2005).

² Hadash official website, Political platform at <http://www.hadash.org.il/matza.html> (last visited May 15, 2005) (in Hebrew).

³ NADIM ROUHANA ET AL., ARAB CENTER FOR APPLIED SOCIAL RESEARCH (MADA), VOTING WITHOUT VOICE: THE PALESTINIAN MINORITY IN THE ISRAELI PARLIAMENTARY ELECTIONS 2003, at 63 (in Hebrew).

Palestinians in Israel who went on to become Members of Knesset, as well as leaders of civil society, were active participants in the university student movement. Nearly all current members of Knesset have served key roles in the Palestinian Arab student union.

Arab political parties in Israel generally divide along three main ideological movements or streams: the communist, the nationalist and Islamic streams. While the communist movement has historically manifested in joint Jewish-Arab parties, the nationalist and the Islamic streams are predominantly represented by independent Arab parties.⁴ With their increase in popularity, both the Nationalist and Islamic parties have experienced state harassment and intimidation.

Founded in 1961, Al-Ard (the land in Arabic), was the first Arab nationalist movement in Israel, calling for equal rights for all citizens, an end of ethnic-based discrimination, and the recognition of the UN partition plan. By 1965, the Israeli High Court disqualified Al-Ard from running on the ground that it rejected the Jewish nature of the state and identified with Arab states, defined by Israel as enemy states.⁵ The National Democratic Assembly (Balad) party, established in 1996 by Azmi Bishara, aims to continue the nationalist tradition by seeking to transform Israel from a “Jewish and democratic state” to “a state for all its citizens.”⁶ Bishara, who has served as member of Knesset since 1996, faces continual challenges to his legitimacy as political leader as well as attempts to disqualify his party.

In 1996 the Islamic Movement split into two factions. The Southern branch participates in local council and parliamentary elections as a way to ensure their representation and engagement with the political system. The Northern branch, headed by Sheikh Ra’ad Salah, rejects participation in national elections.⁷ Running as part of the United Arab List, the Islamic Movement gained five and two seats in the 1999 and 2003 Knesset elections, respectively.⁸ Within the 2006 elections, the Islamic movement among the Palestinian Arab community gained popularity (assuming the current trend). In Israel this has led to harassments and arrests of its political leaders. See the section below on Political Delegitimization and the 2003 Elections, for more details.

The northern fraction of the Islamic movement which is not taking part in elections to Knesset is an obvious example for that. In addition to the northern fraction there are also other secular political movements who are calling for the establishment of Arab political center. The movement for boycotting elections was harmed from the position of the Islamic party who allowed its members to vote (or to boycott) for the Knesset.

Palestinian women in Israel continue to be severely marginalized and underrepresented in the political arena. Currently "there are no Arab women serving in Israel's 120-member parliament though Arabs with Israeli citizenship make up 17 percent of the nation's population."⁹ In 1999, the first Palestinian Arab woman, Hussniya Jabara, of the Progressive

⁴ See *Id.* at 12-18; ARAB ASSOCIATION FOR HUMAN RIGHTS, SILENCING DISSENT 8 (October 2003) available at <http://www.arabhra.org/publications/reports/PDF/SilencingDissentFinal.pdf>.

⁵ See E.A. 1/65, Yardor v. Elections Committee for the 6th Knesset, 19(3) P.D. 365.

⁶ See Parliamentary groups in the Knesset: National Democratic Assembly (Balad), at http://www.knesset.gov.il/faction/eng/FactionPage_eng.asp?PG=103.

⁷ Interview with Sheikh Ibrahim Sarsur, Islamic Movement, in Kafr Kassem, Israel (April 14, 2005).

⁸ Parliamentary groups in the Knesset: United Arab List at http://www.knesset.gov.il/faction/eng/FactionPage_eng.asp?PG=106.

⁹ "Israeli Women Push to Change Knesset Politics." Womens e-News, by Brenda Gazzar. Run date: 03/20/06. <http://www.womensenews.org/article.cfm?aid=2675>

Zionist Meretz (now Yachad) list, was elected to serve in the Knesset. In the recent 2006 election, Nadia Hilo, a member of the Labor Party and an Arab citizen of Israel, is poised to become the second Arab woman to serve in the Knesset."¹⁰ Female representation on local councils fares only slightly better. Three Arab women were elected to local Arab councils during 2003 local elections. As of 2003 there were no female Arab mayors. That fact still remains true today.

1. Voting Trends of Palestinian Arab Citizens

In the early years of the state, the Arab electorate has primarily supported Jewish parties, particularly left-of-center parties, such as Labor and Meretz (now Yachad), which call for social and political equality and a just and comprehensive regional peace.¹¹ In 1992, Jewish parties received approximately 53% of the Arab vote. However, a history of broken promises by Zionist leaders and discriminatory legislation supported by Zionist parties has driven a wedge between Palestinian Arab citizens and Zionist politics. The Palestinian Arab community transferred its support to Arab political parties which received over 60% of the Arab vote in 1996, and about 70% of the Arab vote in 1999 (see Table 1).

In the 1999 elections, three Arab political parties vied for seats. By the 2003 election, the number of Arab parties has grown to seven, reflecting an increased diversity in political ideologies and needs. Yet, parties that split from the three primary parties failed to garner the required number of minimum votes for parliamentary seats. Arab voters preferred the familiar communist/ socialist stream represented by Hadash and Ta'al (Ahmed Tibi's Arab Movement for Renewal), the nationalist agenda of Balad and the Islamic Movement as represented by the United Arab List.

Table 1: Voting preferences among Arab citizens in parliamentary elections

Party / Year	1992	1996	1999	2003
Balad	0.00%	0.00%	16.8%	21.4%
Hadash	23.2%	*37.0%	21.29%	28.8%
Labor	20.3%	16.6%	7.43%	6.3%
Likud	19.3%	5.2%	4.84%	2.3%
Meretz (Yachad)	9.7%	10.5%	5.02%	4.2%
United Arab List (UAL)	15.20%	**25.4%	30.55%	18.6%
National Progressive Unity List Other***	12.30%	5.30%	Ran w/ UAL 14.07%	7.4% 8.4%
National Arab Party	--	--	--	--
National Democratic Assembly	--	--	--	--
Voter Participation	69.7%	77%	75%	62%

* Including Balad

** Including the Islamic Movement

***Including Daam, Shas, Israel Ba'aliya

In 1999, Bishara (Balad) ran for prime minister, but pulled out of the race to unify support for

¹⁰ Id. At 9

¹¹ Jewish Virtual Library, Parties: Meretz (now Yachad), at <http://www.jewishvirtuallibrary.org/jsourc/Politics/partytoc.html> (last visited May 10, 2005).

the One Israel-Labor Party candidate Ehud Barak. Subsequently, 400,000 Arab votes went to Barak, who won by a margin of 350,000 votes. However, in a move perceived as political betrayal by the Arab community, Barak bypassed Arab parties in forming his government coalition and opted to include rightwing Orthodox Jewish parties, such as Shas, known for its unfavorable views towards the Arab community, and that had opposed him in the elections.

In protest of unfulfilled promises by Prime Minister Barak, and the October 2000 events in which security forces killed 13 Arab citizens, all in the shadow of the *al-Aqsa intifada*, the Arab community organized an election boycott. All Arab political parties supported the boycott of the February 2001 prime-ministerial election, leading to a mere 18% turnout rate amongst the Arab community, a historic low.¹²

A 2002 survey of political attitudes of the Palestinian Arab community in Israel conducted by the Institute for Peace Research revealed a continuing trend of loss of confidence in the Israeli democratic system and feeling that they have no ability to influence it.¹³ About 83% of Palestinian Arab respondents to a 2001 survey by the same Institute expressed that they are dissatisfied with their ability to influence the government.¹⁴ Moreover, only 7.2% of Palestinian Arab citizens polled indicated that the Knesset expresses their interest in the state, compared with 26.4% who believe Arab members of Knesset represent their concerns. Notably, 33.4% respondents answered that “no one represents their interests in the state of Israel.”¹⁵

In the 2003 parliamentary elections, voter turnout was only 62% amongst the Palestinian Arab citizens.¹⁶ The northern Islamic Movement, and the secular nationalist, Sons of the Village (SOV) party incorporated into their platform the call for a boycott of the 2003 elections. Each party cited ideological grounds for the call not to vote: the northern Islamic Movement, led by Sheikh Ra’ad Salah, promoted pan-Islamic arguments and SOV advocated a pan-Arab nationalist ideology against the vote.

The lowest participation rates for the 2003 elections were in the unrecognized villages of the Naqab (Negev). Mossawa Center reported to the Central Election Committee that 10 Arab localities in the Naqab, recording a 0.0% participation rate, had their voting centers moved from their locales without notice.

Disappointment and feelings of disenfranchisement were especially felt in 2003 among the thousands of Arabs citizens whose votes were lost with the National Progressive Unity List, which earned less than the 1.5% of all votes needed to win a seat. This is but one of the many incidents where the Israeli “election threshold” or ““passing percentage quota” has stifled Arab representation in the Knesset. An election threshold “stipulates that a party must receive a minimum percentage of votes, either nationally or within a particular district, to get any seats in the parliament. The effect of the threshold is to eliminate small parties, or force them into coalitions. Many hold that this makes an election system more stable by keeping

¹² The American Jewish Committee, Israel/Middle East Briefing, Appendix 4: Voter Turnout (Jan. 16, 2003) at <http://www.ajc.org/Israel/IsraelMideastBriefingsDetail.asp?did=208&pid=1593#appendix4>.

¹³ Aas Atrash and Sarah Ozacky-Lazar, Institute for Peace Research at Givat Haviva, *A Survey of Political and National Attitudes of the Arabs in Israel, October-November 2002* (November 2002), at 2.

¹⁴ *Id.*

¹⁵ *Id.* at 20 (Appendix B).

¹⁶ MADA, *supra* note 3, at 62.

out radical factions.”¹⁷

The 2006 parliamentary elections resulted in the lowest voter turnout by the Palestinian Arab community for such an election since the establishment of the state (with one exception).¹⁸ Only 56% of the Palestinian Arab citizens voted in the 2006 parliamentary elections, which is 7% lower than the general voter turnout (63%).

The coalition for boycotting the elections:

Boycotting elections in Israel has become a viable political tool among Arab citizens. The coalition for boycotting the elections is not covered by Arab media. It is built from left political elites which believe in establishing an Arab political center in addition to the Jewish political center (Knesset). According to the coalition's belief, boycotting the election is a national goal which Arabs should aspire to. The coalition is calling for boycott of the elections and calling for direct elections for an Arab Parliament. Main opponents for the coalition's program are the parties running for elections to the Knesset. The failure of those parties in not being represented in Knesset will definitely not be the end of their political views and thoughts

In election polls conducted long before the elections, 22% of Arab citizens announced that they are willing to take part and vote in the 2006 elections.

2. The 2003 Parliamentary Elections

Israel's 2003 election to its unicameral, 120-member parliament (Knesset) took place on January 28, 2003.¹⁹ Results of these elections show that Balad and Hadash parties have gained support within the Arab community, while the United Arab List (merger of the Arab Democratic Party and the Islamic Movement) have weakened. Ten members of the 16th Knesset, as elected in 2003, represent the Arab community, down from 14 in the previous Knesset (see Table 1).

The three first-term MKs elected in 2003 to represent the Arab community are: two from Balad, Jamal Zahalka and Wasil Taha and one from Likud, Majalli Whbee. Seven incumbent MKs were re-elected: three from Hadash-Ta'al party, Dr. Ahmad Tibi, Mohammad Barakeh, and Issam Makhoul; two from the United Arab List, Abdulmalik Dehamshe and Talab El-Sana; Balad founder Azmi Bishara; and one from Likud, Ayoob Kara.²⁰ Following the elections, Raleb Majadele (Labor) became a member of Knesset as a replacement for another candidate.

3. The 2006 Parliamentary Elections

Within the 2006 parliamentary elections, four Arab parties participated. After a number of Arab parties failed to garner enough votes for parliamentary seats in 2003, the number of

¹⁷ “Election Threshold” from Wikipedia: The Free Encyclopedia at http://en.wikipedia.org/wiki/Election_threshold

¹⁸ In 1981 the Arab community's voter turnout rate was 59.7%. MADA, *supra* note 3, at 62. Notably, the 2003 election also marked the lowest overall voter turnout, amongst Jewish and Arab citizens.

¹⁹ See The 16th Knesset, at http://www.knesset.gov.il/history/eng/eng_hist16.htm. Israel's electoral system allows for proportionate representation of political parties in its parliament (Knesset). Parties develop their own lists and can receive seats in the Knesset if they receive more than the qualifying threshold of 2% of the total votes. In the 2003 Elections that required threshold was 1.5%. The Electoral System in Israel, Knesset official website at http://www.knesset.gov.il/description/eng/eng_mimshal_beh.htm (last visited May 15, 2005).

²⁰ Knesset: Current Members of Knesset, at http://www.knesset.gov.il/mk/eng/mkindex_current_eng.asp?view=1 (last visited May 15, 2005).

active parties has decreased from 7 to 4 from 2003 to 2006. In addition, there may have been a recognition by the Arab community that an increased voter threshold may mean that parties need to consolidate in order to acquire even a few seats within parliament. The names of the active parties and their top candidates in 2006 are as follows: National Arab Party- Muhamad Kanan, National Democratic Assembly- Azmi Bishara, Hadash- Mohammad Barakeh, United Arab List: Arab Renewal- Ibrahim Sarsur.²¹

Table 2: Knesset members representing the Arab community by political party

Party	1999	2003	2006
Hadash	3	3	3
United Arab List	5	2	4
Balad	2	3	3
Labor	2	0 (1 replacement candidate)	3
Meretz (Yachad)	1	0	0
Kadima	--	--	1
Likud	1	2	0
National Progressive Unity	0 (w/UAL)	0 (20,0571 votes)*	0
Daam	0 (2,151 votes)*	--	0
National Arab Party	--	--	0
National Democratic Assembly	--	--	0
TOTAL	14	11	14

* Number of votes fell short of the qualifying threshold for a Knesset seat.

Names of elected Arab MKs:

Hadash:

Mohammad Barakeh: Hadash
Dr. Hanna Sweid: Urban Planner

UAL party (United Arab List):

Shiekh Ibrahim Sarsur: Religious Leader
Dr. Ahmad Tibi: Medical Doctor
Adv. Talab ElSana: Lawyer
Shiekh Abass Zakurr: Religious Leader

Balad party:

Dr Azmi Bshara: Philosophy Ph.D.
Dr. Jamal Zahalka: Pharmacology Ph.D.
Mr. Wasel Taha: ex. Head of Local Council

Labor party:

Ms. Nadia Helo: Social Worker
Mr. Raleb Majadele Labor party
Mr. Shakib Shanan, Labor party

²¹ "Elections for the 17th Knesset: Lists and Candidates" at <http://www.knesset.gov.il/elections17/eng/list/ListIndex>

Kadima:

Mr. Mjali Wihbi: Kadima

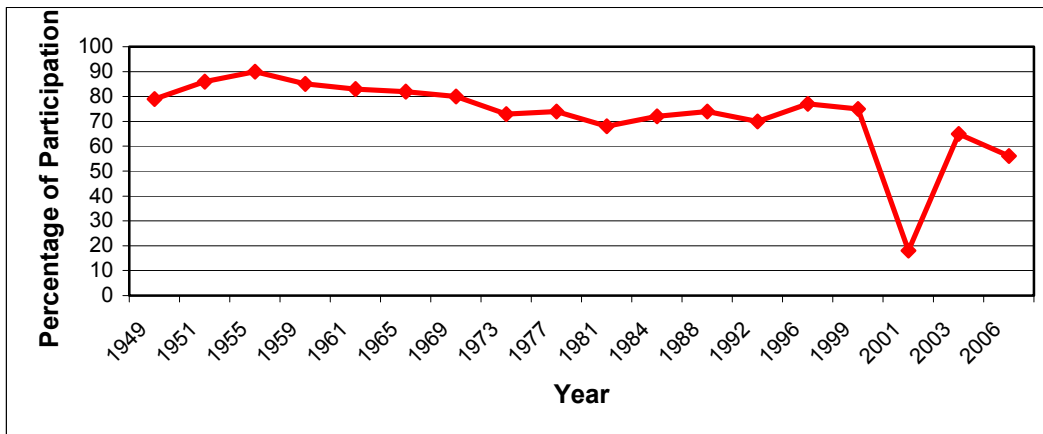
Arab Knesset Members who left the Knesset:

Two Arab Knesset members, who functioned in the previous elections resigned from the Knesset: Abdelmalek Dahamshi (Raa'm) and Issam Makhoul (Hadash)

56% of eligible voters in the Arab community voted in the 2006 parliamentary election. In 2003, voter turnout was higher, around 62%, and in 1999, 75% of Arabs were reported to have participated (see Graph 1). This data illustrates a trend in Arab voter turnout and political participation within parliamentary elections—one in which turnout has steadily declined as a result of feelings of disenfranchisement and overall political frustration.

The preliminary results of the 2006 parliamentary election indicate a growth in the election of Arab MKs when compared to previous elections. Results are as follows: 13 Arab Knesset members and 1 Jewish Knesset member representing an Arab party. 9 of them will represent Arab citizens, 3 from Labor party (including one Arab woman), 1 from Kadima, and 1 Jewish MK in Hadash party, to also represent the Arab community.

Graph 1: The Participation of Arab Voters in National Elections, 1949-2006



The qualifying threshold for representation within the Israeli Parliament has changed since 2003, and currently stands at 2% of all total votes. The threshold was 1% before the 13th Knesset in 1992, but was increased to 1.5%. This 1.5% threshold lasted until 2003, when the 16th Knesset further raised the threshold from 1.5% to 2%.²²

The increased threshold has had the effect of explicitly attempting to limit minority representation within the Knesset. Although varying in ideologies, Arabs are now forced to consolidate their political, economic, and social objectives in order to ensure their representation in the parliament. This has important ramifications for an already sizeable, underrepresented Arab minority. As 13% of the total voter population within Israel, such a change in Israeli law damages a true opportunity to raise discussion about the rampant

²² “The Electoral System in Israel.” The Knesset in the Government System. Accessed 27/03/2006 at http://www.knesset.gov.il/description/eng/eng_mimshal_beh.htm

discrimination of Arab citizens.

Not only are they forced to consolidate their views, their diminishing representation in the Knesset ensures that their voice is stifled and unheard—especially on issues of major importance to the Arab community: social, political, and economic equality; women’s rights; the allocation of public funds and resources; discrimination within Israeli society; and the future direction of Israel’s economic system (socialist or capitalist) are among many other important, relevant issues.

Discussions of raising the election threshold were pushed to the periphery of Arab politics. The Arab community acquiesced to the threshold so as to ensure the future existence of their parties in what-was-perceived as a measure to restrict minority participation. Different ideological positions were thus consolidated so as to ensure representation in the future of Israeli politics.

Forcing the consolidation and estrangement of Arab parties within Israeli politics instigates further polarization of Arabs and Jews. Political and economic objectives of Jewish political parties are thus put at a higher priority on the Israeli agenda. Arab objectives are put aside. This could lead, at best, to a discussion over the identity of Israel: as both a Jewish and democratic state, or, whether one has priority over the other. At worst, such political estrangement could escalate the already tense atmosphere, and spark future political confrontation in the region.

4. Local Council Elections

As the Palestinian Arab community in Israel continues to be marginalized by national politics dominated by the Jewish majority, the community has turned to local government. Local councils in Arab localities provide a forum for genuine political expression by the Palestinian Arab community and a place to address community priorities, such as housing, education and employment. The most recent local elections took place in 2003. Participation in these elections has traditionally been high in Arab localities, ranging from 67.7% to 91%. Moreover, as voter participation has dropped on the national level, it has increased on the local level. During the local elections in 2003, 90-95% of Arab voters turned out,²³ compared with 62% in the national parliamentary elections.

Local councils also serve as an arena in which Arab women in Israel increasingly play a role. While Palestinian Arab women face systematic discrimination by the State as part of the Arab community, they also continue to struggle with evolving notions of the status of women in a patriarchal Arab society. Since the establishment of the state of Israel, only 15 Arab women have served as members of Arab local councils, with the first women elected in 1969. Many of the women were not directly elected but assumed their role as part of party rotation or vacancy. During the 2003 local elections, three women were elected.²⁴

Hadash and the Islamic Movement lead in placing women high on their political lists, thereby allowing their inclusion in the local municipalities.²⁵ The majority of women in local councils served in the Galilee, two in the Triangle area and one in the Naqab.²⁶

²³ Suheir Abu Oksa Daoud, Mossawa Center, *The Political Representation of Palestinian Women in Local Political in Israel- 2003*, at 17.

²⁴ *Id.* at 4, 21.

²⁵ *Id.* at 5.

²⁶ *Id.* at 11.

5. Recent efforts to undermine the political legitimacy of Palestinian Arab citizens

The increased tolerance of incitement against Palestinian Arab citizens is paralleled by a trend of laws and legislative drafts that seek to undermine the political legitimacy of the Palestinian Arab community. In the past few years, several new legislative changes aim to curb the freedom of speech and political organizations of the Palestinian Arab community in Israel. Amendments to the Basic Law: The Knesset provide that a list of candidates may not participate in elections to the Knesset if its “objects or actions” negate the existence of Israel as the State of the Jewish people, or deny the democratic character of the State, incite to racism, or “support the armed struggle, of an enemy state or of a terrorist organization against the State of Israel.”²⁷

While seemingly innocuous, these amendments, particularly the 2002 addition, were conceived with the intent of disqualifying Arab lists of candidates. In 2001, the Knesset stripped the parliamentary immunity of MK Bishara to enable filing charges against him for allegedly supporting a terrorist organization. The case against Bishara was based in part on retroactive application of the 2002 amendment.²⁸

During the 2003 parliamentary elections, petitions to the Central Elections Committee (CEC) likewise utilized these laws to disqualify MK Bishara and his Balad party, as well as MK Tibi (Ta'al). The CEC, considered a highly politicized body, disqualified these candidates and the Balad political party based on the allegation that they support the armed struggle of an enemy state or a terrorist organization against the state of Israel, primarily for comments made in support of the Palestinians' struggle against Israeli occupation. In a show of support for the Arab politicians, the High Follow-Up Committee, the Mossawa Center, Arab and Jewish organizations and individual activists demonstrated outside of the High Court building on the day of the disqualification hearing.

While the High Court reversed the decision of the CEC, the petitions against the candidates signified attempts to limit the freedom of speech of Palestinian Arab citizens and their political leadership. The new legislation has undermined the ability of Palestinian Arab citizens to organize politically and to challenge state policies that discriminate and harm Palestinian Arab (i.e. non-Jewish) citizens.

Since the start of the *al-Aqsa intifada*, the government has worked to delegitimize the Arab leadership and crackdown on politics that challenge the state. In May 2003, Israeli security forces arrested the head of the Islamic Movement, Sheikh Ra'ad Salah, and 14 leaders in the Movement.²⁹ Most were released within a few days, but five were charged with illegal financial activities that threaten the security of state, that have been linked to counts of financial irregularities. What was originally billed as a terrorism trial about funneling money to terrorist groups in the Occupied Palestinian Territories, ended with financial irregularities in funds transferred to humanitarian organizations. As a result of a January 2005 plea bargain, Sheikh Salah was released from administrative detention after having served a third of the 42 months he was sentenced to serve for the offenses.³⁰

²⁷ Basic Law: The Knesset (1950) *amended* July 31, 1985, amendment no. 9 of Section 7A, *available at* http://www.knesset.gov.il/laws/special/eng/basic2_eng.htm; amendment May 2002 to Section 7A.

²⁸ Adalah, *The State of Israel v. MK Dr. Azmi Bishara*, *available at* <http://www.adalah.org/eng/bishara.php> (last visited May 5, 2005).

²⁹ Ittijah, *Press Release*, May 16, 2003, *at* http://www.ittijah.org/press/pr_03_05_16.html.

³⁰ Yair Ettinger, *Plea deal secures Islamists' release*, Ha'aretz, Jan. 12, 2005 *available at* <http://www4.alternativenews.org/display.php?id=4294>.

6. Incitement during the 2006 elections

Racial incitement in elections:

Beyond the general atmosphere which was created by Kadima, Likud, and the Labor party in regard to the separation wall, the strengthening of racism, and the separation between the two people; five parties took part in the direct racial incitement against Arab citizens in the current election system, these parties are:

Shas

The Jewish National Front

Hirof

Israel Beteno

Haahod Haliumi, (National Union)

Here are some examples for racial incitement against Arab citizens:

Shas:

In the election broadcasts on Israeli TV for the party, there was incitement against building churches and mosques. It was claimed that Arab men seduce Jewish young women, and that thousands of Jewish children are found in Arab villages. All was broadcasted, while in the background one can see mosques and Arab villages.

The National Jewish Front:

This party is considered to be an extremist movement, and a continuation of the former "Kahana" Movement". They were proclaimed as illegal party in 1988. The movement was also declared in the past as a terror organization and was put on the list of terror organization of Israel and in the European Union.

Before and during the elections her members threatened the citizens of Sakhnin city and called for the demolishing of houses there. Later the members of the movement provoked Arab citizens. One of the worst provocations occurred on 23.03.2006 when its members together with Hirof activists threatened Arab citizens in Jaffa and offered them money in order to emigrate and to give up their citizenship, and coerced not to vote.

These actions of the movement clearly contradict and hurt the elections law. Yet despite these racist incidents, the CEC has not taken any legal action against the movement.

Hirof:

Its members offered money for Arab citizens in Jaffa, in order to help them emigrate. The CEC has furthermore not taken any legal action against the movement. The motto of the movement is: 'Compensation of Palestinians for their evacuation.' One of Hirof's campaign ads showed the second-highest candidate in the movement disguised as an Arab woman with a head scarf – mocking Palestinian women.

CHAPTER 4 RACISM AND INCITEMENT

Israel is bound by domestic and directly-applicable international law to protect its citizens against racism and discriminatory action based on race, ethnicity, color or national origin.¹ Yet, race- and ethnic-based violence against Palestinian Arab citizens continues to be tolerated, and in some instances sanctioned by the state. References to “racism” in this section include all racist and discriminatory action based on race, ethnicity, color or national origin.

Since October 2000, when security forces killed 13 Palestinian Arab citizens during volatile demonstrations, the Mossawa Center has documented 22 more cases of Palestinian Arab citizens killed by security forces. To date, only two security personnel members have been indicted. The incidence of race-based violence has grown alarmingly, accompanied by increased citizen participation. Jewish citizens physically assaulted 17 Palestinian Arab citizens in 2003 alone.² Yet, Jewish Israelis, including those involved in underground Jewish terror groups go unaccosted by police, unless they threaten to harm Jewish Israeli citizens.³

Law enforcement agencies have generally been slack in dealing with even the most extreme cases of racism against Palestinian Arab citizens. The police attitude remains dismissive despite numerous complaints filed by Palestinian Arab citizens, including actual bombing attempts, as detailed in the Golan case below.

Members of Israel’s government and parliament, entrusted with advancing the rights of citizens and promoting tolerance and equality as set forth in the Declaration of Independence,⁴ instead, opt to contribute to the racist public attitude towards Arabs in Israel and in general, as described below.

The Mossawa Center’s 2004 Racism report highlights 15 severe incidents of racism among countless unreported occurrences. These include anti-Arab racist incitement, including disturbing and inflammatory expressions by high-ranking officials and ministers. It also reports on nine cases in which Palestinian Arab citizens were prohibited from entering public places, dismissed from work or profiled based on their national ethnicity.⁵ For example, on March 28, 2003, after the Mossawa Center began receiving complaints that The Stage nightclub in Haifa was preventing Arabs from entering its premises, a mixed group of Palestinian Arabs and Jews affiliated with Mossawa Center went to visit a local nightclub. The guard at the door denied entry to the Palestinian Arab citizens on the pretext that the party was for soldiers only, but welcomed the Jews who arrived a bit later, without asking to show their proof of military service.

¹ See e.g., Israel Sentencing Law 1977 (last amended Nov. 20, 2002); The Law Prohibiting Discrimination in Products, Services and Entry into Places of Entertainment and Public Places (2000); The UN Convention on the Elimination of All Forms of Racial Discrimination (ratified by Israel in 1979).

² MOSSAWA CENTER, RACISM REPORT 2004, at 7 (in Hebrew).

³ *Id.*

⁴ “The State of Israel . . . will be based on freedom, justice, and peace as envisaged by the prophets of Israel.” The Declaration of the Establishment of the State of Israel, May 14, 1948, *available at* http://knesset.gov.il/docs/eng/megilat_eng.htm

⁵ The Law Prohibiting Discrimination in Products, Services and Entry into Places of Entertainment and Public Places (2000) states that

“Any person who operates a public place . . . shall not discriminate in permitting entry to a public place because of race, religion or religious community, nationality, country of origin, sexual orientation, political affiliation, personal status, parenthood or disability.”

In an example of profiling, in March 2004, the helmets of Arab construction workers at the Knesset were marked with red Xs to distinguish them from the other workers. Knesset speaker, Reuven Rivlin, explained that, “because we are dealing here with a sensitive site, [this would allow]... security forces [to] quickly identify them,”⁶ but later denied the existence of such instructions.

Moreover, in recent years, the Arab political leadership in Israel has been targeted for harassment, falsely publicly accused, restricted in their speech and some physically attacked in more than 38 documented cases. In addition, the Mossawa Center 2004 Racism report highlights 10 discriminatory legislative initiatives, including five explicitly racist proposals, including legislative attempts in control issues of birthrate and marriage. For more detail on legislative proposals, see Part IV, Chapter 1: Legal Status of the Arab Citizens of Israel, in this report.

With most Jews inaccurately perceiving hostile intentions by Palestinian Arab citizens and Palestinian Arab citizens increasingly fearing for their safety, the situation could only further deteriorate without intervention at all levels of society.

1. Extremist public opinion on the rise

The October 2000 events marked the start of a rightward shift in Israel’s political landscape. From a population that widely supported the peace process, Israelis have become disillusioned with peace and increasingly inclined toward military solutions.

Recent public opinion surveys suggest an alarming increase in public support for “Kahanism,” the Kach party platform advocating for a Greater Israel state, which includes the West Bank and Gaza, devoid of Arabs and for population transfer of Palestinian Arab citizens outside Israel.⁷ Rabbi Meir Kahane’s Kach political party, voted to the 1984 Knesset, was banned from participating in elections based on a Basic Law amendment forbidding the inclusion of incitement to racism in a political platform. In 1994, Kach was officially declared a terrorist organization,⁸ yet evidence suggests that support for the party is not waning. For example, 21% of Jewish Israelis surveyed in May 2004 by the National Security Studies Center agreed that “Rabbi Meir Kahane [of the anti-Arab Kach party] . . . could have been a good leader of the Jewish nation today.”⁹ Thirty-seven percent (37%) agreed that “when Arab terror strikes, violent responses of Jews against Arabs are desirable.”

These public sentiments facilitated the reinstatement of the Public Council of Demography. In September 2002, Minister of Welfare, Labor and Health, Shlomo Benizri announced the reactivation of the Council after four years of inactivity. In the council’s first meeting, Minister Benizri stated that the council aims to “give full attention to phenomena that harm the growth of the Jewish majority in the state.”¹⁰ The legal consultant to the Ministry, Tomer

⁶ Boaz Gaon, *Marked*, Ma’ariv, March 9, 2004 (in Hebrew).

⁷ RACISM REPORT, *supra* note 2, at 9.

⁸ David Shyovitz, *Rabbi Meir Kahane*, Jewish Virtual Library, The American-Israeli Cooperative Enterprise cr2005, at <http://www.jewishvirtuallibrary.org/jsource/biography/kahane.html>.

⁹ National Security Studies Center, University of Haifa, *Survey of Trends Towards Extremism and Violence – May 2004*, at <http://ica.hevra.haifa.ac.il/teamco/nssc/files/data/45/92.pdf>.

¹⁰ Moti Bassock and Ruth Sinai, *Jewish population growth slows in 2001*, Ha’aretz English Edition, 4 September, 2002.

Berkovitz, clarified that “It is the right and even the duty of the state to act to preserve the state as Jewish and democratic.”¹¹

The Council’s mandate to encourage the growth of the Jewish population in Israel is premised on the notion that non-Jewish, i.e. Palestinian Arab, populations constitute a “demographic threat” and should be addressed as such.

Palestinian Arab citizens feel and experience the expressions of these increasingly extremist Jewish attitudes. Whereas 39.5% of Israeli Jews polled in the same survey agreed “All Arabs should leave the State of Israel,”¹² about 58% of Palestinian Arab citizens were “afraid that the Jews will ‘transfer’ us, and 61% are “afraid that the Jews will use violence against the Arabs.”¹³ Twenty-six percent (26%) of Arab respondents have been “personally harmed by religious discrimination” and 39% have experienced “discrimination on the basis of national identity.”¹⁴

2. Examples of Racism and Incitement against Arab Citizens of Israel

The following examples, taken from the Mossawa Center 2004 Racism report, illustrate racism and incitement against the Arab citizens in Israel by officials and in the public realm.

i) Incitement by Lawmakers

Minister of Housing, Effie Eitam (National Religious Party)

On 22 March 2002, *Ha’aretz* newspaper interviewed Housing Minister Effie Eitam shortly after he assumed the leadership of the National Religious Party and joined the Prime Minister’s cabinet. He stated in the interview that:

I say that the Arabs in Israel overall are a bomb that is going to explode beneath the entire democratic system in Israel. . . The Arabs in Israel are turning into a fifth column . . . We need to consider whether Israel’s democracy can continue to enable this public to go on taking part in it . . . Arabs in Israel are a dangerous fifth column, like a cancer. We must consider removing their right to citizenship.¹⁵

Minister of Finance, Benjamin Netanyahu (Likud)

During the influential annual Conference on the Balance of Israel’s National Security in December 2003, Finance Minister Benjamin Netanyahu sparked controversy by dehumanizing Arab citizens of Israel, referring to them as a “demographic problem.” He stated that:

Concerning the demographic problem, it is true we have such a problem. It is not focused on Palestinian Arabs in the Territories, [but] rather on the Arab Israelis. . . . Our policies should balance between the two needs [a Jewish and democratic state]: first of all, we must ensure a Jewish majority in the country.¹⁶

¹¹ Avigdor Yitzhaki, letter to the Mossawa Center.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Interview with Minister of Housing Effie Etam by Ari Shavit, *cited in A Leader is waiting for a signal*, Ha’aretz, March 22, 2002.

¹⁶ Inbal Aviv, *Netanyahu: The State’s Demographic Problem – Arab Israelis* News First Class, Dec. 17, 2003 at <http://www.nfc.co.il/archive/001-D-36300-00.html?tag=11-31-24&=True> (in Hebrew).

While the inflammatory statement sparked outcry by Palestinian Arab and Jewish human rights organizations in Israel,¹⁷ and their international allies, it expressed an increasingly prevailing sentiment and reinforced support for public policy premised on the notion that Arab citizens are a “demographic threat” to be curbed. Existing laws and recent amendments reflect the underlying desire to restrict access of Arab citizens to full equality and to state resources and institutions. See Part V, Chapter1 Legal Status of Arab Citizens of Israel, for more details.

MK Yehiel Hazan (Likud)

In an example of misplaced rage against Arab citizens, MK Yehiel Hazan (Likud) justified inflammatory remarks by Deputy Defense Minister Zeev Boim (Likud) given at a memorial service on January 25, 2004 for Israelis killed in a suicide bombing attack. Boim questioned whether “extremist Muslim suicide bombers” are driven by religious background or by genetic or cultural defects.”¹⁸ MK Hazan supported Boim’s comments “in light of the fact that for decades Arabs have been slaughtering Jews,” adding that:

This is exactly what we mean by such expressions: Do not turn your back in the presence of an Arab person. Do not feel safe with Arabs even if they have been in their grave for 40 years already!

Prime Minister, Ariel Sharon (Likud)

Possibly for the first time in Israel’s history, in February 2004, a prime minister has publicly suggested, ridding of tens of thousands of Arab citizens and handing them over to another political entity, i.e., the Palestinian Authority.¹⁹ Prime Minister Ariel Sharon revisited the idea of removing Arab citizens from Israel. Despite resistance from local residents, Sharon has promoted the transfer of the entire triangle region, which includes Umm al-Fahm township’s nearly 40,000 Arab citizens of Israel, to the West Bank, in order to reduce the possibility of an undesirably large Arab minority in Israel.

In April 2004, Sharon warned against the “not-so-easy problem of [Arabs] actualizing their desire to return [to Israel] by sneaking into Arab cities and villages in Israel.”²⁰ Sharon implied that Palestinian workers looking for employment in Israel and Palestinian men or women who marry citizens of Israel do so with the aim of actualizing their “right of return,”²¹ rather than exercising their rights to work and form a family. Recent legislative drafts aim to further restrict the ability of Arab citizens to marry Palestinians from outside Israel. See Part V, Chapter1 Legal Status of Arab Citizens of Israel, for more details.

¹⁷ Mossawa Center, Press Release: *Mossawa Center calls on Jewish Leaders in Israel and Abroad to Confront Netanyahu's Racist Comments*, Dec, 18, 2003 at <http://www.mossawacenter.org/en/pressreleases/2003/12/031218.html> Association for Civil Rights in Israel (ACRI), *Netanyahu: Israeli Arabs - a demographic problem; ACRI Protests*, Dec. 18, 2003 at <http://www.acri.org.il/english-acri/engine/story.asp?id=154>.

¹⁸ Main news broadcast, ITV Channels 10, 1 and 2, Jan. 2, 2004, on the racist comments of the Deputy Defense Minister Ze’ev Boim.

¹⁹ Ben Kaspit and Amir Gilat, *The program to separate the Triangle*, Ma’ariv, Feb. 4, 2004, at <http://images.maariv.co.il/cache/cachearchive/04022004/ART642248/html>

²⁰ A. Benn, *We'll expel illegal Arabs from Israel*, Ha’aretz, April 2, 2004.

²¹ *Id.*

ii) Racism in the public realm

Terrorism against Arab citizens

On March 4, 2004, shortly after a bomb exploded beneath Arab MK Issam Makhoul's car, the police arrested Eliran Golan, 20, from Haifa, in connection with nine separate bombing attempts against Arab citizens over the previous two and a half years. Golan confessed to the charges against him and added that he had acted out of "hatred towards Arabs." He additionally confessed to planning a mortar attack at the home of MK Mohammad Barakeh (Hadash) and had already checked out the layout around his house in Shfa`amer. He was also planning to target MKs Azmi Bishara (Balad) and Ahmad Tibi (Hadash-Ta'al). During the interrogation, Golan also admitted that he was the leader of an underground organization called *Mador 1*. Following the investigation, Golan was deemed unfit to stand trial by reasons of insanity. While unstable to stand trial, Golan paradoxically continued to serve in the Israeli army reserves.²²

Beach of Hatred

On August 9, 2003, a group of knife wielding Jewish youths attacked a group of Arab youths from Ramle, who were having a beach party near Hadera. One of the three Arab youths receiving treatment at a nearby hospital reported that hospital staff deemed "foolish" their going to the beach at Givat Olga near Hadera "because any Arab who goes there is sure to get hurt."²³

Hadera police commander, Chief Inspector Eli Krispel, acknowledged that the attack had been racially-motivated: "The young people were attacked by a group of Jewish youths who heard them speaking Arabic. The attackers' identities are known. We will arrest them soon."²⁴ To-date, although the police are aware that the attack had a nationalist-racist basis, and admitted to knowing the perpetrators, no one has been indicted or arrested.

Conclusion

The Palestinian Arab citizens in Israel find themselves in as precarious a position today as at any point in the state's history: racist incidents are on the rise coupled with inadequate or non-existent responses by public institutions. State attention to the cases above was primarily the result of pressure by the Mossawa Center and other non-governmental bodies working against racism in Israel. In the absence of such advocacy, the state would continue its neglectful policy when it comes to Palestinian Arab victims of racism.

²² David Ratner, *Haifa bomb planter unfit to stand trial*, Ha'aretz, April 19, 2004.

²³ Yosef Algazi, *Are you Arabs? The attackers asked*, Ha'aretz, July 23, 2002.

²⁴ Yisrael Moskovitz, *We spoke Arabic-and they lynched us*, Yediot Ahronot, Aug. 11 2003.

PART V. PALESTINIAN ARAB CITIZENS OF ISRAEL AND THE MIDDLE EAST PEACE

Some scholars describe the Palestinian Arabs in Israel as inhabiting a “double periphery: while Palestinian by culture and nationality, they are marginalized by the Palestinian leadership and national struggle, and by Israeli society.¹ Public opinion surveys suggest that the majority of Palestinians in Israel, while they feel closer to the West Bank and Gaza Palestinians than to Israeli Jews, see their future in the state of Israel and do not wish, whether individually or collectively, to move to a newly-established Palestinian state alongside Israel.² Concurrently, Palestinians in Israel believe that their concerns with the state and their struggle for “full citizenship,” rather than merely “formal citizenship,” should be included in peace negotiations.³

CHAPTER 1 PEACE INITIATIVES

The Palestinian community in Israel has largely been excluded from playing an active role in the Palestinian-Israeli negotiations, or broader Middle East peace talks. None of the peace frameworks, whether with other Arab states or with Palestinian officials, from the 1978 Camp David accords, and the 1993 Oslo Accords to the 2003 Roadmap and the Saudi peace initiative, addressed their status in and concerns about the emerging two-state solution. Both Israeli and Palestinian officials have marginalized and dismissed the community’s political and social interests and contributions.

The historic **1978 Camp David Peace Accord** between Egypt and Israel traded the Israeli-occupied Egyptian Sinai desert for peace and normalization.⁴ Despite the fact that the wars with Egypt were triggered primarily by Palestinian issues, the Camp David Accord only vaguely addressed the issue of Palestinians in the Occupied Territories, and avoided any mention of Palestinians living within Israel. When referring to future negotiations on the issue of Palestinians, the Camp David Accord considers contacts solely with “the elected representatives of the inhabitants of the West Bank and Gaza.”

The 1987 *intifada*, and later the 2000 *al Aqsa intifada*, reinforced the national bond between Palestinians in the Occupied Territories and those within Israel and strengthened the latter’s resolve to be part of any final settlement of the Palestinian issue.⁵

The **1991 Madrid Conference** sought to launch bilateral and multilateral negotiations between Israel and Jordan, Lebanon, Syria and Palestinian representatives. The Madrid conference resulted in separate bilateral peace talks between Israel and Jordan and Israel and Syria, and set up a framework for a Palestinian self-governing arrangement leading to a

¹ Majid Al-Haj, *The Impact of the Intifada on the Arabs in Israel: The Case of a Double Periphery*, in FRAMING THE INTIFADA. PEOPLE AND MEDIA 64-75 (Akiba A. Cohen and Gadi Wolfsfeld eds., 1993).

² See e.g., As’ad Ghanem and Sarah Ozacky-Lazar, *The Status of the Palestinians in Israel in an Era of Peace: Part of the problem but not part of solution*, in THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE 276 (Alexander Bligh ed., 2003).

³ *Id.* at 277.

⁴ Israeli Ministry of Foreign Affairs (MFA), Camp David Accord, Sept. 17, 1978, available at <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Camp%20David%20Accords> (last visited April 4, 2005). As a result of signing a peace agreement with Israel, Egypt was expelled from the Arab League and the Islamic Conference.

⁵ Alexander Bligh, *The Final Settlement of the Palestinian Issue and the Position of the Israeli Arab leadership*, in THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE 292 (Alexander Bligh ed., 2003).

permanent solution.⁶

The preparations leading up to the Madrid Conference marked the first time that PLO leaders and Arab members of the Israeli Knesset members held public coordination meetings, suggesting close collaboration between the respective leaderships about Palestinian concerns in Israel and the Occupied Territories.⁷ As priorities for the communities changed over time, the PLO focused on advocating a territorial solution and the interests of the 1967 refugees and the Palestinian Arabs in Israel worked to address their issues of seized property, land, the rights of internal refugees and civil equality.⁸

However, Arab Member of Knesset Mohammad Meiri, who came to the Madrid conference with the explicit intent of raising the concerns of the Palestinian Arab community in Israel, went unheard by any of the parties present.

Notably, Arab civil society organizations, political parties and university students in Israel have been instrumental in raising the Israeli-Palestinian issue and the injustice of the ongoing Israeli occupation. Even prior to the first *intifada*, the Arab Student Union at Haifa University, for example, organized demonstrations and on-campus discussions.⁹ Because university campuses provide the only space where Arab and Jewish citizens of Israel interact at relatively equal status, they provided the ideal backdrop to inspire debate and build a confident Arab leadership. The majority of the Palestinian Arabs in Israel who went on to become Members of Knesset were active participants in the university student movement, including MKs Azmi Bishara, Mohammad Barakeh, Issam Makhoul, and Ahmed Tibi, who remain important voices for the Palestinian community in Israel and in the Occupied Palestinian Territories.

The omission of the concerns of Palestinians in Israel from the resultant framework documents designed to guide subsequent talks, continues to be reflected in negotiated agreements, as well as in the limited mainstream understanding of the Israeli -Palestinian conflict. The early 1990s signing of the milestone **Oslo Declaration of Principles** and subsequent accords,¹⁰ which called for mutual recognition and a permanent status settlement, infused the Palestinian community in Israel with hope for their improved conditions vis á vis those of the Palestinians in the Occupied Palestinian Territories (OPT). Arab political parties provided critical political backing to the 1992-1996 pro-peace Labor-led parliamentary coalition and in return many of their community concerns received attention and resources, including improved allocation of state resources.

The popular vision that Palestinian Arab citizens would gain from the peace process quickly faded as the Oslo Accords failed to raise their concerns. Both the Israeli government and the Palestinian Liberation Organization (PLO) shunned responsibility for publicly advocating on behalf of Palestinian citizens of Israel, effectively leaving them without any representation in negotiations that would directly affect their collective interests, national aspirations as well as

⁶ MFA, *The Madrid Framework*, at

<http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/The%20Madrid%20Framework> (last visited April 10, 2005).

⁷ Bligh, *supra* 5, at 292.

⁸ *Id.* at 296.

⁹ Interview with Jafar Farah, Director, Mossawa Center, in Haifa, Israel (May 6, 2005). Farah served as the president of the Arab Student Committee at Haifa University in 1987-88 and the head of the National Arab Student Union in 1988-1989.

¹⁰ The Oslo Accords refer to a series of agreements signed between Israel and the PLO in the early 1990s, including the Declaration of Principles on Interim Self-Government Arrangements.

daily reality. Parties to the Oslo Accords narrowly defined “the Palestinian question” to include only Palestinians in the Gaza Strip and the West Bank, excluding Palestinians in Israel and in Diaspora.¹¹ The community expressed disappointment at the PLO’s failure to address the issue of refugees, as 25% of Palestinian Arabs in Israel are internal refugees (known as “present absentees”) and many have relatives living within the OPT and neighboring Arab countries.¹² The Oslo agreements refer solely to UN Security Council Resolutions 242 and 338, which exclusively address territories occupied by Israel in 1967, and expressly omit reference to UN General Assembly Resolution 194, which addresses the right of the displaced population to return to their homes or receive compensation.¹³ Overall, the PLO’s neglect of Palestinians in Israel shaped the community view that while the PLO may not represent their interests, peace talks between the PLO and Israel should address their grievances with the state of Israel.¹⁴

Palestinian Arab citizens of Israel held as political or “security prisoners” in Israeli prisons constitute another that falls “between the cracks.” Prior to the Oslo agreements, whenever Israel engaged in hostages exchange, it also released prisoners who are Palestinian Arab citizens of Israel. Today, however, Arab citizens held as “security prisoners” in Israeli prisons are not counted among the prisoners eligible to be released as a result of the Oslo agreements. Therefore, not only do these prisoners receive more severe punishments than Jewish prisoners for equivalent crimes, and not qualify for presidential pardons, or vacations allowable for their Jewish counterparts, they also find that neither the Israeli government nor the Palestinian leadership will advocate on their behalf during peace negotiations.¹⁵

Though Palestinians make up more than half of the Jordanian population in the largest concentration of Palestinians in Diaspora,¹⁶ the **1994 Jordan-Israel peace treaty** is a purely bilateral agreement with only vague reference to Palestinians as “displaced persons” whose plight should be resolved in accordance with international law and together with Jordan, Israel, Egypt and the Palestinians.¹⁷ The treaty recognizes the “special historic role” of Jordan’s Hashemite Kingdom at Muslim holy shrines in Jerusalem,¹⁸ which aimed to fill the ownership vacuum over these sites, with the presumed understanding between Jordan and the Palestinian leadership that once a Palestinian state is formed it will assume control of these sites.¹⁹

Despite the initial euphoria, the years **following the Oslo Accords** brought deepening social, economic and political inequalities between Jews and Arabs in Israel. Subsequent high-level

¹¹ See Elie Rekhess, *The Arabs of Israel after Oslo: Localization of the National Struggle*, 7(3) J. ISRAEL STUDIES 3 (Fall 2002).

¹² Mustafa Kabha, *The Conspiracy and the Victim*, in KAFR KASSEM: MYTH AND HISTORY 106 (Ruvik Rosenthal ed., 2000).

¹³ Resolution 194, para. 11 “Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property....” G.A. Res. 194, U.N. GAOR, A/RES/194(III) (Dec. 11, 1948), at <http://domino.un.org/UNISPAL.NSF/0/c758572b78d1cd0085256bcf0077e51a?OpenDocument>.

¹⁴ Ghanem & Ozacky-Lazar, *supra* note 2, at 277.

¹⁵ See Amira Hess, *Double Discrimination: The Arab Israelis are sentenced to more severe punishment than Jews, and receive worse sentencing conditions*, Ha’aretz, April 28, 2005, at A4 (in Hebrew).

¹⁶ Palestinian Ministry of Health, Demographics 2003, at http://www.moh.gov.ps/pdf/dem_palestine2003.pdf.

¹⁷ Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, October 26, 1994, Article 8(2)(A).

¹⁸ *Id.* at Article 9(2).

¹⁹ Interview with Sheikh Ibrahim Sarsur, Islamic Movement, in Kafr Kassem, Israel (April 14, 2005).

talks, including the 1998 Wye River memorandum (outlining Israeli withdrawal from the West Bank) and the 1999 Sharm al-Sheikh memorandum (promoting a timeline for outstanding commitments),²⁰ failed to lead to genuine, committed implementation of negotiated agreements.

Disillusioned by both the Oslo process and worsening conditions, the Palestinian community in Israel intensified political protest and social activism to address their local concerns within Israel, such as land rights and fair representation (affirmative action/ corrective discrimination).²¹ The **2000 *al-Aqsa intifada*** and solidarity demonstrations by Palestinian Arabs in Israel, in which 13 Arab citizens died at the hands of Israeli security forces, led to heightened tensions between Arabs and Jews within Israel. Because these deaths symbolized the injustice felt by the community, the situation risked provoking internal skirmishes complicating the Palestinian-Israeli conflict.

At the March 2002 Arab League summit in Beirut, Saudi Crown Prince Abdullah formally announced his initiative for a Middle East peace arrangement. Broadly stated, the **Saudi peace initiative** offers recognition of Israel and “normal peaceful relations” with all Arab states as part of a comprehensive regional peace in exchange for Israel’s withdrawal from territories seized in 1967, namely the West Bank, Gaza, East Jerusalem and the Golan Heights, and the establishment of a Palestinian state.²² Resorting to vague language on the refugee issue, the Saudi initiative merely refers to UN General Assembly Resolution 194, which stipulates repatriation and compensation as options.

The Palestinian community in Israel, particularly Islamic representatives, lauded the Saudi initiative as a courageous call for the recognition of Israel’s sovereignty over the bulk of historic Palestine and for normalized relations between Israel and the Arab world. By promptly rejecting the Saudi plan, Prime Minister Sharon has rejected an unprecedented invitation for Israel to become an integral part of the Middle East region.²³ Despite such sentiments, in its 2005 summit meeting in Algeria, the Arab League renewed its offer to Israel and ratified the Saudi proposal, also known as the Beirut Declaration and dubbed the “Arab Peace Initiative.”

Seeking to break a bloody cycle of killing, which between 2000 and 2003 had claimed the lives of 2,368 Palestinians and 843 Israelis,²⁴ in April 2003 the Quartet, made up of the United States (US), Russia, the European Union (EU) and the United Nations (UN), unveiled the performance-based, three-phased **Roadmap to a permanent two-state solution**. In line with previous UN Security Council resolutions 242, 338 and 1397, the Madrid framework and the Saudi initiative, the Roadmap calls for a negotiated settlement to the Israel-Palestinian conflict primarily by ending the 1967 occupation and establishing an

²⁰ MFA, at <http://www.mfa.gov.il/mfa/peace%20process/reference%20documents>.

²¹ See International Crisis Group (ICG), *Identity Crisis: Israel and its Arab Citizens* (March 4, 2004), at 28-30.

²² Reuters, Draft text of the Saudi Initiative, *available at*

<http://www.haaretzdaily.com/hasen/pages/ShArt.jhtml?itemNo=145479&contrassID=3&subContrassID=0&sbSubContrassID=0>.

²³ Interview with Sheikh Ibrahim Sarsur, *supra* note 19.

²⁴ By April 2005, the total fatalities rose to 3,255 Palestinians killed and 958 Israelis (including 302 security forces personnel). B’Tselem, *Statistics: Intifada Fatalities 2000-2003*, at www.btselem.org/English/Statistics/Palestinians_killed_by_Israeli_security_forces_monthly_tables.asp

“independent, democratic viable Palestinian state.”²⁵

In the most internationalized effort to date, the Roadmap aims to contribute to a comprehensive Middle East peace and calls for active support and involvement of the Quartet in reaching a final, permanent status resolution, including “an agreed, just, fair and realistic solution to the refugee issue,” and the status of Jerusalem.²⁶ However, the Roadmap’s language reinforces a limited view of the broader “Palestinian issue,” which affects all Palestinian populations and countries in the region. Yet, a more encompassing view of the Palestinian issue is necessary for any genuine, viable comprehensive regional peace framework. This approach, reiterated as a matter of international consensus, considers the Palestinian issue as primarily one of borders, eschewing a rights-based approach to ensuring the human rights and civil liberties of Palestinian populations in Israel, as well as in the Occupied Palestinian Territories.²⁷

Despite the revived hopes surrounding the introduction and acceptance of the Quartet-backed Roadmap, within months the situation deteriorated again. Bypassing strained official contacts, prominent Palestinians and Israelis, including senior officials, ministers, negotiators and generals, drafted the **Geneva Initiative**, a detailed blueprint for an Israeli-Palestinian permanent status agreement. The primarily civil society initiative provides for five concrete options for places of permanent residence for Palestinian refugees; a detailed compensation framework for property and “refugeehood,” regardless of the refugee’s place of permanent residence; and a structure and mandate of an international body to oversee the process.²⁸ However, the initiative only provides a “right to return” to territories under the future sovereignty of a Palestinian state, and fails to address the concerns of internal refugees, or those refugees seeking to return to their original places of residence in Israel.²⁹

The Geneva Initiative has gained the support primarily of Palestinian Arab citizens who are members of left-wing Jewish political parties. Though the Palestinian Arab community has remained mostly neutral concerning the initiative, some community commentators have pointed out the need for further development of such issues as refugees, the *al-Aqsa* mosque and the final status of an independent Palestinian state. In addition, the initiative makes scant reference to the general protection of human and civil rights, and prefers to avoid tying the rights of Palestinians within Israel to its detailed plans for sustainable, permanent peace.³⁰

²⁵ Office of the Spokesman, Department of State, A Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict (Apr. 30, 2003), *available at* <http://www.state.gov/r/pa/prs/ps/2003/20062.htm>.

²⁶ See Roadmap Phase II, International Conference, and Phase III Second International conference. *Id.*

²⁷ For a critique of the omission of explicit human rights guarantees in the Roadmap and the Oslo Accords, see Human Rights Watch, *The Roadmap: Repeating Oslo’s Human Rights Mistakes* (2003), *available at* <http://www.hrw.org/backgrounder/mena/israelpa050603.htm>.

²⁸ See The Geneva Initiative website, *available at* <http://www.geneva-accord.org/HomePage.aspx?FolderID=11&lang=en>. According to the Truman Institute (Israel) and the Palestinian Center for Policy and Survey Research, the Geneva Initiative “package” is supported by the majority of both Israelis (64%) and Palestinians (54%). *Id.*

²⁹ See Yoav Peled and Nadim N. Rouhana, *The Palestinian Refugees and the Right of Return: Theoretical Perspectives*, 5 THEORETICAL INQ. L. 317, 327 (July 2004). The Geneva Initiative proposes Israel as one of the options for permanent settlement for Palestinian refugees, “at the sovereign discretion of Israel” and in accordance with the total number of refugees Israel will accept to receive. Geneva Accord, Draft Permanent Status Agreement, Article 7 – refugees, cl. 4(iv)(c).

³⁰ The Geneva Initiative cites protection of human rights in only one context: under the article on security, in preventing incitement to irredentism, racism, terrorism and violence “without prejudice to “freedom of

The **death of Arafat** on November 11, 2004 and the election of Mahmud Abbas (Abu Mazen) during the Palestinian presidential elections on January 9, 2005, led to revived coordination and cooperation between Israel and the Palestinian leadership in the OPT. Yet, on February 18, 2005, the Israeli parliament (Knesset) approved Prime Minister Ariel Sharon's plan to *unilaterally* withdraw from the Gaza Strip and four settlements in the northern West Bank.³¹ Despite the instatement of a Palestinian "partner" for negotiations and the potential of the Gaza withdrawal to jumpstart the stalled peace process, the so-called "**disengagement plan**" is premised on the desire to socially and psychologically "disengage" from the Palestinians as worthy coexistence partners.

The disengagement solely addressed the impact of the withdrawal on the evacuated settlers,³² and failed to consider the effects on the Palestinians populations, both in the OPT and in Israel. The settlers' compensation law is currently re-settling groups of Jewish settlers from the occupied territories in the Galilee and the Naqab (Negev) at the expense of Arab populations whose residence in the area pre-dates the establishment of the state of Israel. The plans to "Judaize the Naqab," allocate plots of land and grants only to Jews, often by confiscating Arab lands, and devotes development resources only to Jewish areas. Consequently, the plan not only fails to consider the adverse impact on Arab populations in these areas, but acts to perpetuate entrenched discrimination against and inequality of Arab villages and towns in the Galilee and the Naqab.³³

U.S. support for Israel's withdrawal from Gaza in the form of funds for the development of the Naqab and Galilee to absorb Jewish settlers from Gaza, has further legitimized and insulated Israel from criticism against this explicitly discriminatory plan. In March 2005, Israel requested US\$600 million (EUR 522.7 million) from the US government to fund the withdrawal from Gaza, primarily through relocation of military bases and to develop the Naqab and the Galilee.³⁴ One billion US Dollars was later approved, however the funds were not implemented due to the tragedy of Hurricane Katrina.

expression and other internationally recognized human rights." *Id.* Article 5(5)(i). The rights to worship and to security appear in several places. Preamble, Article 10(i)(a).

³¹ Law on the implementation of the disengagement plan, 2005, 142-202 (Feb. 18, 2005). Prime Minister Ariel Sharon presented the four-stage unilateral disengagement plan on May 28, 2004, based on the conclusion that "there is currently no partner on the Palestinian side with whom progress can be made on a bilateral process."

Appendix A: Four stage disengagement plan, Key Principles, Background.

³² The withdrawal presumes to absolve Israel of any responsibility for the Palestinian populations in Gaza. The population of Gaza lives in an area about twice the size of Washington, DC, from which they have no land access to their administrative, economic and social centers in the West Bank. Thus, Gazans fear that after the Israeli pullout, Gaza will become the "largest open air prison" in the world, while Israel continues to control entry and exit into the area. See B'Tselem, One Big Prison: New Report Warns Against Continued Strangulation of Gaza Strip after Disengagement (March 29, 2005), *available at* http://www.btselem.org/English/Press_Releases/20050329.asp; see also Appendix A: Four stage disengagement plan, II(A) and I(F): "completion of the four-stage disengagement plan will negate any claims on Israel regarding its responsibility of the Palestinian population of the Gaza strip."

³³ Pursuant to a 2003 government decision, Bedouins in the Naqab have been evicted from their lands (via eviction orders and house demolitions) and settled in townships characterized by extremely poor economic and social infrastructure and where they can no longer practice their pastoral lifestyle on which they subsist. Mossawa Center, The Plan to Judaize the Naqab and the Implications on the Status of the Arab citizens of the Naqab (April 2005) (English pending, July 2005)

³⁴ Moti Basok, *Israel to request from the US 600 million dollar to fund the disengagement and the development of the Galilee and the Naqab*, Ha'aretz, The Marker, March 13, 2005.

Land and population swaps

As the idea of an independent Palestinian entity becomes closer to a reality, political discourse has turned against the rights of the Palestinian community in Israel. As part of the unilateral approach to addressing the Israeli-Palestinian conflict, the Israeli government has announced its plan to “swap” Arab towns and their residents in Israel for Jewish settlements and their residents within the Occupied West Bank. Hoping to maintain a Jewish majority within Israel, the government has turned what used to be termed as extreme right-wing, racist, anti-Arab rhetoric of “population transfers” to mainstream political discourse.

According to a February 2004 poll by the Arab Center for Applied Social Research (MADA), more than 90% of surveyed Palestinian Arab citizens of Israel who live in the “Triangle” area along the Green line, which has been marked for the land swap, oppose the proposed land exchange.³⁵ In contrast 46% of Jewish Israeli respondents to a 2003 Jaffee Center for Strategic Research survey supported the transfer of Palestinians living in the territories, and 33% supported the transfer of Arab citizens of Israel.³⁶ By 2004, about 64% of Jewish Israelis surveyed in a national security studies poll expressed desire for the government of Israel to encourage emigration of Arab Israelis from the state.³⁷

³⁵ According to the MADA survey, the 91% Arab citizens who opposed the land swaps claimed that it would require them to leave their homeland (43%); result in reduced living standards (33%), loss of jobs (22%), loss of rights as Israeli citizens (17%) or separation from relatives and friends (11%); and expressed concerns about the future stability of the Palestinian Authority (12%). Arab Center for Applied Social Research (MADA), Land and Population Exchange Survey (February 2004), *available at* http://www.mada-research.org/sru/press_release/survey_landPop.shtml.

³⁶ Asher Arian, Jaffee Center for Strategic Studies, Tel Aviv University, Israeli Public Opinion on National Security 2003 (October 2003) *at* <http://www.tau.ac.il/jcss/memoranda/memo67.pdf>.

³⁷ National Security Studies Center – University of Haifa, Survey of Trends Towards Extremism and Violence – May 2004, *at* <http://ica.hevra.haifa.ac.il/teamco/nssc/files/data/45/92.pdf>.

CHAPTER 2 RELATIONS WITH JEWS IN ISRAEL

The relationship between Palestinian Arab and Jewish citizens, and the State of Israel is often colored by suspicion and distrust. Successive Israeli governments maintained tight control over the Arab community, attempting to suppress the collective Palestinian/Arab identity by dividing the community into subgroups, such as Druze, Bedouins, Christians and Muslims.¹ The state-sanctioned approach to the Arab community in Israel, widely held by Jewish citizens, is that Arab citizens possess “double loyalties” and constitute both “security” and “demographic” threats to the Jewish character of the state of Israel.² Fueled by the ongoing Israeli-Arab conflict, a great deal of hostility has shaped these attitudes as the Jewish majority view the Palestinians who remained in the state as part of the Arab world, as “a potential fifth column, a Trojan Horse, and often simply as enemies of the state.”³ By the height of the *al-Aqsa intifada*, between 61% and 72% of Jewish Israelis surveyed in 2001-2002, asserted that Arab citizens of Israel pose a danger to state security.⁴

In recent years, especially with the eruption of the 2000 *al-Aqsa Intifada* and the unresolved Israeli-Palestinian conflict, internal relations deteriorated, as the Jewish majority and Arab minority become increasingly separate and isolated from one another. Given ongoing terror attacks and retaliatory military actions against Palestinians in the West Bank and Gaza, Jewish Israelis have often projected their anger with Palestinian militants onto the Palestinian Arab community in Israel, viewing them as terrorist or potential threats to security. About half of Jewish Israelis surveyed in 2001 agreed that the *intifada* reversed their attitude toward Arab citizens from positive to negative.⁵

Yet, despite increased popular perceptions about the growing militancy of Palestinian Arab citizens since the outbreak of the second *intifada*, only a small number of Arab citizens of Israel are implicated in terror activities. For example, in 1999 only two Arab citizens of Israel were implicated in such activity,⁶ by 2003 that number increased to 25.⁷ Moreover, high ranking sources within Israeli security forces repeatedly confirm that more than 99% of Arab citizens of Israel have never made attempts to harm the state or its security.⁸ According to MK Azmi Bishara, Arab citizens of Israel make up the “quietest [calmest] national

¹ See Youssef Jabareen, *Law, Education and Social Change: The Case of Arab Education in Israel*, in EDUCATION, SOCIAL DEVELOPMENT AND EMPOWERMENT AMONG INDIGENOUS PEOPLES AND MINORITIES: INTERNATIONAL PERSPECTIVES 8 (Champagne et al. eds., 2005).

² About half of Jewish respondents to a 2004 survey on attitudes toward extremism agreed that “Israeli Arabs endanger the security of the state” (55%) and “represent a danger to Israeli democracy” (50%). National Security Studies Center, University of Haifa, *Survey of Trends Towards Extremism and Violence – May 2004*, Questions 60-61, available at <http://ica.hevra.haifa.ac.il/teamco/nssc/files/data/45/92.pdf>.

³ Jabareen, *supra* note 1.

⁴ NIMER SULTANY, THE ARAB CENTER FOR APPLIED SOCIAL RESEARCH (MADA), CITIZENS WITHOUT CITIZENSHIP 130, Table 14 (2002).

⁵ *Id.* at 131 citing a 2001 Jaffe Center survey of 1,216 Jewish Israelis.

⁶ INTERNATIONAL CRISIS GROUP (ICG), IDENTITY CRISIS: ISRAEL AND ITS ARAB CITIZENS (March 4, 2004), at 25. Notably, the existence of multiple guesstimates as to the number of Arab citizens implicated in terror-related activities fans the flames of suspicion. For example, one commentator claims that 77 Arab citizens were involved in terrorism in 2002. *Id.* at n.163.

⁷ According to the Shabak (Israeli Security Service), of 25 terrorists-plans uncovered in 2004, Arab citizens actively participated or planned to carry out 13 of them and 11 assisted by collecting information about potential target locations and logistical help. Shabak information cited in Amos Harel and Tzi Harel, *Arab Israeli confessed: assisted the suicidior to carry out terror attack at “the Stage” and reccomended the promosade as a target*, Ha’aretz, March 25, 2005, at 4A (in Hebrew).

⁸ Aluf Hareben, *Toward 2025: Is a participatory civilian society possible for Jews and Arabs in Israel?* in THE JEWISH-ARAB RIFT IN ISRAEL: A READER 87 (Ruth Gavison & Dafna Hacker eds. 2000) (in Hebrew).

minority of the 20th century.”⁹

Consequently, although the involvement of the Arab citizens of Israel in violent terrorist activities remains marginal, media coverage of these activities and public discourse create the impression of collective guilt, obligating the Arab leadership to issue repeated apologies and condemnations for acts for which they bear no responsibility and which include numerous fatalities of Arab citizens.¹⁰ In addition, Palestinian citizens who continue to morally identify with the Palestinian struggle for independence face an accusatory finger which further isolates them from the increasingly right wing Jewish society and governmental policies.

Given increasing tolerance for anti-Arab sentiments, in particular calls for emigration, transfer and Arab land swaps, about half of Palestinian Arab citizens surveyed expressed a high level of concern about their future in Israel.¹¹ According to a May 2004 survey, 64% of Jewish Israeli respondents backed government encouragement of the emigration of Arab citizens from the state of Israel.¹² The 2003 survey on national security revealed that 57% of Jewish Israelis surveyed agreed that the Israeli government “should encourage the emigration of Arabs from Israel,” compared with 50% in 2001. About 33% of respondents to this survey supported transferring Palestinian Arab citizens of Israel out of the country.¹³

1. Discrimination and Segregation

Continuing discrimination and grave discrepancies in public resource allocation have created significant economic, social and political gaps that continue to overshadow relations between the communities. Both Jews and Arabs increasingly recognize and agree that Arab citizens of Israel are subjected to discrimination, compared to Jews. According to the 2004 Israel Democracy Index, 64% of Israelis agreed that Arab citizens of Israel suffered discrimination compared with Jewish citizens, up from 55% in 2003.¹⁴

About half (49%) of Jewish Israelis surveyed in the 2003 National Security Opinion poll preferred an emphasis on law enforcement regarding Arab citizens, rather than promoting equality with the country’s Jews. Notably, in the previous year, 58% chose law enforcement as the approach toward Arab citizens of Israel.¹⁵

Fueled by each community’s preferences to preserve their culture, religious traditions, and ethnic identity, *de facto* segregation characterizes the relations between Arabs and Jews in Israel. The Arab and Jewish communities are separated by geographic location, religion, culture and language (with the exception of Jews who emigrated from Arab countries), as well as education and occupation. Lack of genuine integration and meaningful interaction

⁹ Azmi Bishara, *The Arab Israeli: Review of the divided political discourse*, in *THE JEWISH-ARAB RIFT IN ISRAEL: A READER* 39 (Ruth Gavison & Dafna Hacker eds. 2000) (in Hebrew).

¹⁰ For example, in the March 31, 2002 bombing in an Arab co-owned café in Haifa took the lives of 15 Jewish and Arab citizens. Craig Whitlock, *Palestinian Kills 15 at Restaurant*, *The Washington Post*, April 1, 2002, at A1, available at <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A44412-2002Mar31¬Found=true>.

¹¹ A Dahaf Institute survey conducted on behalf of Madar revealed that 59% of Jewish Israelis surveyed supported the encouraging the emigration of Israeli Arabs. See Yoav Stern, *Poll: Most Israeli Jews say Israeli Arabs should emigrate*, *Ha’aretz*, April 4, 2005, available at www.haaretz.com/hasen/objects/pages/PageArticleEn.jhtml?itemNo=560739.

¹² National Security Survey, *supra* note 2.

¹³ Arian Asher, Jaffe Center for Strategic Studies, *Israeli Public Opinion on National Security 2003* (Tel Aviv University, October 2003), at 30, available at <http://www.tau.ac.il/jcss/memoranda/memo67.pdf>

¹⁴ Israel Democratic Institute, *The 2004 Israel Democracy Index Auditing Israeli Democracy Attitudes of Youth* (2004), at 33, 54.

¹⁵ National Security Survey, *supra* note 2, at 34.

between the two communities has reinforced existing negative stereotyping.

Arab communities live in smaller towns and villages in the Galilee, the Triangle and the Naqab, while Jewish communities prefer urban centers and suburbs along the central coast. About 10% of Palestinian Arabs live in “mixed Arab-Jewish cities,” mostly those which were originally Arab and mixed prior to 1948, including Tel Aviv-Jaffa, Haifa, Acre, Lod-Ramle and the newly-constructed, Upper Nazareth. No mixed city was created after the establishment of the State of Israel, with the exception of Oasis of Peace (Wahat al-Salaam/ Neve Shalom), founded by private individuals and not the state. Yet, even in the so-called “mixed cities,” Arab and Jewish residents tend to live in ethnically homogenous neighborhoods with minimal inter-communal interaction. Moreover, overall, Palestinian Arab citizens living in mixed cities suffer from poorer socio-economic conditions than the Jewish citizens in the same cities, and as compared to Palestinian Arab citizens living in Arab localities.

Palestinian Arab citizens enjoy only limited housing mobility as most Jewish communities do not welcome Arabs to their localities. In a 2000 decision, the High Court ruled in favor of an Arab citizen whose application for residency in Katzir, a heavily subsidized Jewish community in north-central Israel, was refused for consideration by the residential committee because he was not Jewish.¹⁶ While considered a landmark case, commentators fear that the decision only narrowly applies to communities that benefit from state subsidies and will not extend to all localities.¹⁷ The ruling has yet to be implemented to date.

Few and far between, examples of integration tend to be of more symbolic value than catalysts for actual social change. Notably, however, organizations such as Ta'ayush (“life in common” grassroots initiative), Reut/Sadaka (“friendship” Arab-Jewish youth movement) and integrated communities, such as “Oasis of Peace” (Wahat al-Salaam/ Neve Shalom), and experimental Arabic-Hebrew bilingual schools have had significant, lasting impact on the participants and their families. Unfortunately, these successful initiatives –mostly funded by private donations and foundations - remain the exceptions rather than the rule.

2. Racism and Race-based Violence

Race-and ethnic-based violence against Palestinian Arab citizens continues to be tolerated, and in some instances sanctioned by the state. For example the October 2000 events, in which security forces killed 13 Arab citizens during volatile demonstrations, marked a watershed in Arab-Jewish relations. Despite subsequent official recognition of persistent discrimination by official bodies and the Jewish citizenry, proposed reforms have not been implemented because of a lack of political will. Since October 2000, security forces killed a further 22 Palestinian Arab citizens, and Jewish citizens physically assaulted 17 others.¹⁸

Excessive force and use of live ammunition against Palestinian Arab citizens, not only violated Israeli law, but further reinforces the double standards employed in treating Arabs

¹⁶ *Qa'dan v. Israel's Land Administration* (2000), H.C. 6698/95, 54 P.D. I 258.

¹⁷ Youssef Jabareen, *Constitutional Protection of Minorities in Comparative Perspective: Palestinians in Israel and African-Americans in the United States* 214 (2000)(unpublished doctoral dissertation, Georgetown University Law Center) (on file with author); Ilan Saban, *Minority Rights in Deeply Divided Societies*, J. OF INT'L LAW & POLITICS (forthcoming 2005), at 78.

¹⁸ Mossawa Center, Press Release, *Racism in Israel 2004: Thousands of Arab Citizens Suffer from Racism, Xenophobia, Incitement and Violence*, June 1, 2004, available at <http://www.mossawacenter.org/en/reports/2004/06/040601.html>.

and Jews engaged in similar protest activities.¹⁹ Most recently when young Jewish settlers burnt tires on Israel's busiest highway during rush-hour traffic to protest the Gaza withdrawal plan,²⁰ Israeli Security and Police Forces were more sympathetic than aggressive. The conduct of Jewish citizens, including in destructive riots, has never garnered more than the authorized use of tear gas and water cannons. Such state reaction against Jewish citizens is a relatively recent manifestation and is used primarily against peace activists.²¹

Recent years have also witnessed a rise in racist expressions such as hate speech and the increasingly extremist character of public rhetoric about Arabs.²² Particularly after suicide bombings, members of the Arab community often become targets of rage, resulting in harassment, assaults and vandalism of Arab homes and property. In 2004 alone, Mossawa Center documented 15 racist acts of incitement and verbal violence against Arabs by prominent public personalities, and hundreds of incidents of calls by Jewish Israelis to "kill the Arabs," including as part of soccer games in which Arab-majority teams play.²³ The report also highlights 9 cases in which Arab citizens were barred from entering public places.²⁴ For more information about racism against Palestinian Arab citizens of Israel, see Part IV, Chapter 4 Racism and Incitement, of this report.

A recent controversy at Haifa University illustrates that entrenched racism also finds expression among prominent and influential academics. Late last year, Arab students complained that popular political science lecturer, David Bukay, had been making offensive racist comments about Arabs, vilifying Arab culture and Islam and essentializing it as violent and anti-democratic. University and police investigation into this matter are currently in progress.²⁵

3. Scant or Biased Media Coverage

Uneven, biased and often blatantly discriminatory portrayal and coverage of Arabs in the mainstream Israeli media continues to feed harmful negative stereotypes and suspicious attitudes regarding Palestinian Arab citizens of Israel, further widening the gulf of inter-communal misperceptions.

Given that most Israelis are unable to read Arabic, they can only access information about their fellow citizens from the Hebrew-language media, which limits exposure to positive aspects of Arab culture and society. Conversely, the Hebrew-language press fails to cover reports of race-based violence against Arab citizens or adequately cover their disadvantaged socio-economic status, which is extensively covered by the Arab press in Israel.²⁶ The Arab press in Israel consists of two national dailies, three national weeklies, a host of municipality-

¹⁹ See Or Commission of Inquiry, Official Summation (2004) (in English) (available upon request) (last visited October 1, 2004).

²⁰ *IDF Source: W. Bank pullout may be more violent than Gaza*, Ha'aretz, April 10, 2005, available at <http://www.haaretz.com/hasen/spages/563125.html>

²¹ See e.g., Gush Shalom (Peace bloc), *Police Attacks Peaceful Demonstrators in A-Ram*, June 26, 2004, at http://www.gush-shalom.org/actions/gas_strike_a-ram.html. Israeli border police used water cannons, rubber bullets and tear gas against Israeli demonstrators against the separation wall in A-Ram, near Jerusalem.

²² Mossawa Center, Racism campaign, available at http://www.mossawacenter.org/en/projects/anti_racism.html (last visited May 10, 2005).

²³ Racism in Israel 2004, *supra* note 18.

²⁴ *Id.*

²⁵ Meron Rapoport, *In the name of truth*, Ha'aretz, April 28, 2005.

²⁶ See generally, MOSSAWA CENTER, ANNUAL REPORT 2004 (available upon request).

based papers and weekly papers associated with the various political parties.²⁷ These papers tend to thoroughly cover incidents affecting Arab-Jewish relations in Israel, ranging from cases of racism and incitement to emphasis on positive cooperation efforts and partnerships between Arabs and Jews in Israel.²⁸

A 2004 report on cultural diversity in Israeli TV revealed that minority groups, and in particular Arab citizens, are overwhelmingly presented in a negative light, more prone to resort to verbal and physical violence and possessing provocative opinions.²⁹ More than 99% of newscasters and hosts, and 98% of all commentators and experts - usually perceived as positive role models - are Jewish and most often men.³⁰

Apart from a few token success stories, Palestinian Arab citizens in Israel receive no Hebrew media coverage. The Israeli national team competing at the 2005 European World Cup qualifying matches sported two Arab players from the Bnei Sakhnin team, which in 2004 won the Israeli state cup. Yet despite seemingly sporty solidarity, the Bnei Sakhnin and other Arab players face racist assaults and offensive comments on and off the soccer field, including by public officials, such as Minister of Transportation Avigdor Lieberman.³¹

4. *Separate Educational Systems*

Israel's public and private education system is divided into Arabic-speaking and Hebrew-speaking educational systems. While Palestinian citizens of Israel may register their children in Hebrew-speaking education, they almost always go to Arabic-speaking schools near their homes. Apart from the linguistic difference, the educational content in both systems is dictated by the Ministry of Education and emphasizes Jewish history, culture and literature and has not adequately adapted to the Arab community's desire to study its own unique history and celebrate its identity.³²

Not until the early 1990s, when the left-wing Meretz (now "Yachad") party oversaw the Ministry of Education, did official history textbooks state that "Arabs in Israel are an integral part of the Palestinian nation." Even under that government, however, all references to Arab land expropriation by Israel were excised, for fear it would inflame hostility against Jews during tense times.³³ A 2000 amendment to the State Education Law promotes the study of "the language, culture, history, heritage and unique tradition of the Arab population and of other population groups in Israel, and to recognize the equal rights of all the citizens of Israel."³⁴

However, Arab students are required to study the Jewish bible, Judaism, Hebrew language and literature, whereas Jewish students are not reciprocally exposed to Arab culture and

²⁷ Abir Koptiy, Media Coordinator, Mossawa Center, in Haifa, Israel (May 16, 2005).

²⁸ *Id.*

²⁹ According to the report, Hebrew-language news consistently portray Arabs employing verbal or physical language (18%) and holding provocative views (20%), compared to Jews (5%). Eli Avraham et al., Ha-Rashut Hashnia ("The Second Authority") for Television and Radio: The present and absentees during primetime: Cultural Diversity in the commercial TV channels in Israel, July 2004, at 14-15.

³⁰ *Id.* at 17.

³¹ Andy Newman, *Socialist Unity, Football and the Palestinians* (September 2004) available at <http://www.socialistunitynetwork.co.uk/news/football.htm>.

³² Frances Raday, *Self-Determination and Minority Rights*, 26 *FORDHAM INT'L L.J.* 453, 492 (March 2003).

³³ DILIP HIRO, *SHARING THE PROMISED LAND: AN INTERWOVEN TALE OF ISRAELIS AND PALESTINIANS* 290 (1996) quoting Said Barghouti, co-author of the *History of the Middle East*, Vol. II.

³⁴ Raday, *supra* 32, at 492 citing the State Education Law, 1953, as amended on February 2000.

literature. Moreover, reflecting the perception of the Palestinian Arab community as a “security risk,” the Israeli security service (Shabak) has recently been exposed and admitted to being involved in all hiring decisions of teachers and principals for Arab schools.³⁵ No similar intervention exists for Jewish schools, including those situated in extremist right-wing communities known for their promotion of anti-Arab violent activities.

The Dovrat Commission on educational reform, approved by the cabinet in 2005, but has faced popular resistance to its implementation, including a section drafted with the High Follow-up Committee for Arab Citizens in Israel. The Commission report stated that Arab education must include “fostering personal and collective Arab identity as an educational, psychological and social anchor for full integration in Israeli society and in Israel as a Jewish and democratic state.”³⁶

Arab schools continue to be plagued by inadequate resources, shortages of textbooks and study materials, overcrowded classrooms and lack of adequate training for teachers, all of which translate into poorer educational achievement for Arab children and youths.³⁷ According to 2001 official statistics, Palestinian school students received an average of NIS 534 (EUR 92) per student in public allocation, compared with NIS 1,779 (EUR 323) per Jewish student.³⁸ Disparities at the primary education level continue to be reflected in higher education, as Palestinian Arab (referred to as “non-Jewish”) applicants are three times more likely to be refused university admission.³⁹ Palestinian Arab (referred to as “non-Jewish”) students constitute only 10% of undergraduates, 5% of master’s students, and 3.2% of doctoral students.⁴⁰ Palestinian women citizens are the least likely group in Israel to reach university; only 7.1% of them have 16 or more years of schooling, compared with 19% of Jewish women.⁴¹ For more details, see Part IV, Chapter 2: Socio-economic Status, of this report.

5. Official State Language

Arabic and Hebrew are the two official languages of Israel, which obligates the state to ensure access to all state institutions and services in Arabic.⁴² Yet, despite state guarantees, Hebrew is usually the sole language used by state institutions, the legal system and higher education institutions, except in Arab localities. Government publications are usually available only in Hebrew, road signs often exclude Arabic,⁴³ and business and commerce is conducted almost exclusively in Hebrew. Usually after months of delay, legislation is translated into Arabic and published in the *Official Gazette* of laws.⁴⁴ While trials are held in Hebrew, defendants and witnesses may testify in Arabic, but the state will cover the

³⁵ Arab Association for Human Rights, Shabak intervention in appointments to Arab education system, Newsletter, Aug, 27, 2004 available at <http://www.arabhra.org/publications/wrap/2004/wrap184.pdf>.

³⁶ Dan Rabinowitz, *Toward a collective Arab identity*, Ha’aretz, Feb. 16, 2005.

³⁷ See e.g., Human Rights Watch, SECOND CLASS Discrimination Against Palestinian Arab Children in Israel's Schools (2001), available at <http://www.hrw.org/reports/2001/israel2/>

³⁸ Central Bureau of Statistics (CBS), *New Survey: Investment in Education 2000/1* (Aug. 3, 2004) (in Hebrew).

³⁹ SIKKUY, THE SIKKUY REPORT 2004, at 33. available at http://www.sikkuy.org.il/english/2004/report%202003-4_education.pdf.

⁴⁰ *Id.* at 32.

⁴¹ Working Group on the Status of Palestinian Women Citizens of Israel, *NGO Alternative Pre-Sessional Report on Israel's Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEADW)*, January 2005 (on file with author), at 21.

⁴² DAVID KRETZMER, THE LEGAL STATUS OF THE ARABS IN ISRAEL 51 (1990).

⁴³ See Ilan Saban and Muhammad Amara, *The Status of Arabic in Israel*, 36 ISRAELI L. R. 5, 23-24 (Summer 2002). Most official documents and announcements have no Arabic versions. *Id.*

⁴⁴ *Id.* at 22.

translation costs only in criminal proceedings.⁴⁵

The Israeli High Court held in 1999 that Israel is “obligated to respect the minority within it: the person, his culture and the person's language,” including posting all official signs in Arabic and Hebrew, regardless of localities.⁴⁶ Yet, only after concerted protest by civil rights organizations, did the Minister of Transportation agree to add Arabic to Hebrew and English signage at Israel’s new one billion dollar international airport terminal, which opened to fanfare in November 2004.⁴⁷

While the Arab community in Israel is largely bilingual, most Jewish Israelis are not conversant in Arabic. The separate educational systems reinforce the supremacy of Hebrew as students in Arab schools must demonstrate Hebrew fluency to graduate, pass the matriculation exams and to enroll in college or university. Arab students begin mandatory formal Hebrew study in the second grade. Hebrew-speakers are only required to take Arabic classes for three years, from 7th to 10th grade, and new immigrants are exempt from any study of Arabic.⁴⁸

6. Unequal Market Access

The physical and cultural separation of Arabs and Jews is replicated in the industrial and commerce sectors, in which Jewish companies work primarily with other Jewish companies, and Arab businessmen struggle to break into the market. Disparities in educational levels and discrimination in employment have forced the Arab population into lower-paying, physically-demanding jobs, such as construction (about 38% of employed Arabs) and unskilled labor (14.7%).⁴⁹ These occupations are also the first to suffer from economic downturn, such as the most recent one in early 2002, which has severely impacted the Arab community. Given their persistent suspicions of the Arab community, fueled by fears during the *intifada*, Jewish Israeli employers have opted to replace Arab workers with cheaper foreign workers, primarily from Southeast Asia, resulting in a “structural, long-term unemployment crisis” in the Palestinian Arab community in Israel.⁵⁰

Arab women citizens remain the most marginalized group in Israeli society, earning the lowest wages. They lack access to sufficient resources, such as daycare centers, industrial zones or public transportation to help them enter the workforce.⁵¹ Consequently, only 17% of Arab women partake in the workforce, compared with 54% of Jewish women.⁵²

⁴⁵ *Id.* at 23.

⁴⁶ A. 12/99, *Jamel v. Sabek*, 53(2) P.D. 128 cited in Raday, *supra* 32, at 491

⁴⁷ Minister of Transportation Mr. Meir Sheetreet Promises Arabic Signs at Ben Gurion Airport’s Terminal 3, Nov. 12, 2004, available at <http://www.abrahamfund.org/main/siteNew/index.php?page=52&action=sidLink&stId=156>

⁴⁸ Bernard Spolsky and Elana Shohamy, Language Policy Research Center, National profiles of languages in education: Israel: Language policy, available at <http://www.biu.ac.il/hu/lprc/lprcprof.htm> (last updated Feb. 12, 1997).

⁴⁹ ADVA, SUMMARY REPORT 2003-2004: EMPLOYMENT, INCOME AND POVERTY 41 (in Hebrew).

⁵⁰ ICG, *supra* 6, at 12.

⁵¹ CEDAW alternative report, *supra* note 41, at 28.

⁵² ADVA, *supra* 49, at 39. When they manage to overcome hurdles to their employment, Palestinian women citizens place at the bottom of the average income scale. In 2001, Arab women earned an average monthly salary of NIS 3,677 (EUR 668), compared to the average wage of NIS 5,835 (EUR 1,060) for all women and NIS 6,604 (EUR 1,199.9) for all Israelis (at 1 EUR = 5.50 NIS). Alon Atkin, Adva Center, Place of Residence and Income Level in Israel, 2001 (April 2004) available at http://www.adva.org/ivrit/homepage_heb.html (in Hebrew).

Moreover, the overall structural discrimination in the Jewish-Israeli job market serves as a disincentive for higher educational achievements among Arab citizens.⁵³ The high level of university-educated Palestinian Arabs unable to find proper jobs, including those with a strong background in computer science despite Israel's thriving high tech market, is further evidence of the difficulties experienced by Arabs trying to break into professional, business and academic spheres.⁵⁴ For example, despite growing numbers of Arab citizens with substantial legal education and experience, the first Muslim Arab citizen was only hired as a tenured professor in a law school in Israel, at Haifa University in 2001.⁵⁵ Overall, out of 5,000 university faculty positions countrywide, only about 60-70 are held by Palestinian Arab citizens,⁵⁶ of which less than ten are Palestinian Arab women citizens.⁵⁷

7. Military Service: A contingency for rights?

Military service constitutes the most explicit practice separating Israeli citizens based on their nationality.⁵⁸ Compulsory military service, three years for men and nearly two years for women, represents the ultimate integrative experience of Israeli society. By bringing together youths from various cultural backgrounds, military service greatly contributes to the social cohesion and unified vision of Israelis. By law, all 18-year old Jewish citizens must serve in the army, though exemptions exist for religious study, medical reasons and for women, by virtue of marriage, pregnancy, childcare responsibilities or reasons of religion or conscience.⁵⁹

Premised on a mixture of concerns over "double loyalty" and sensitivity about "having to fight fellow Arabs," the law automatically exempts all Arab males and non-Jewish women from serving in the army. By agreement with the relevant communities, since 1957 Druze and Circassian men are required to serve in the Israel Defense Forces (IDF).⁶⁰ Bedouins and Christians may volunteer for service, and some Arab Bedouins have a tradition of doing so. Generally, however, Muslim Arab citizens are banned from even volunteering to the military. Approximately 21% of the Jewish draft-age population, primarily from the Ultra-Orthodox community, does not serve, due to exemptions for religious study or for medical reasons.⁶¹

State assistance and benefits, access to certain jobs, housing options, loans and educational opportunities are often contingent upon military service. For example, a 2002 amendment to the National Insurance Law imposed a 24% cut on national insurance payments for families without relatives in the army, which disproportionately affected poor Arab families, as 25% of them subsist with the help of these payments.⁶²

⁵³ Knesset Inquiry Committee regarding Social Disparities in Israel (2001), *available at* www.knesset.gov.il/AllSite/mark02/h0228953.htm (in Hebrew).

⁵⁴ See e.g. U.S. Department of State (DOS), Country Reports on Human Rights Practices: Israel and the Occupied Territories 2004 (released on Feb. 28, 2005) at National/Racial/Ethnic Minorities, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2004/41723.htm>.

⁵⁵ Yoseph M. Edrey, Symposium: A Global Legal Odyssey: A Brief Introduction to the Legal System and Legal Education in Israel and the Curriculum at Haifa Faculty of Law Spring, 2002 43 S. Tex. L. Rev. 343, at n.1.

⁵⁶ DOS, *supra* note 54.

⁵⁷ Telephone interview with Nabila Espanioly, Director, Al-Tufula: Pedagogical Center and Multipurpose Women's Center (May 15, 2005).

⁵⁸ ORI STENDEL, THE ARABS IN ISRAEL: BETWEEN HAMMER AND ANVIL 351 (2002) (in Hebrew).

⁵⁹ See Defense Service Law 1950 - (Consolidated Version) 1986, Articles 36, 38, 39, 40.

⁶⁰ Liat Yitzkhak, The Druzes in Israel (1998), *available at* <http://www.e-mago.co.il/e-magazine/druze.html>.

⁶¹ Aluf Hareben, *supra* note 8, at 101.

⁶² Mossawa Center, Press Release, *Budget Cuts Institutionalize Discrimination against Children*, June 6, 2002, *available at* <http://www.mossawacenter.org/en/pressreleases/2002/06/020606.html>.

A government committee formed in the 1990s suggested that alternative national (civilian) service for Arab youths might contribute to ensuring full civic equality, including in budgets for economic development for the Arab community in Israel.⁶³ According to a 2003 Knesset background paper on national service for minorities, about 10 men and a few women from the Arab community volunteered for national service in 2003.⁶⁴

During the 1990s several governmental and private legislative initiatives proposed incorporating the Arab community as part of the national (civilian) service. In 2001 the Mayor of the Arab town of Taibeh proposed to draft Arab youths for national service, but encountered strong resistance from Arab leaders in Israel and the Committee of Arab Municipalities.⁶⁵ Likewise, Arab organizations and leaders came out strongly against a 2004 private bill proposing alternative civilian service for Arab citizens.⁶⁶

The Arab leadership has categorically rejected the Israeli government's call for "equality in rights and duties," claiming that neither military nor civilian service should constitute a precondition for the state to guarantee equal rights of Palestinian Arab citizens in Israel. Given the continued discrimination and lower status of the community, including the lack of observable progress of Arab Druze who already serve in the military, opponents reject any state attempt to condition rights on duties. Specifically, the right to adequate living standards, employment, health and development should not be contingent upon military or national (civilian) service.

Yet, the majority of Palestinian Arab students surveyed in 1994 supported voluntary, not mandatory, national service and about half reported their desire to serve as part of a national service scheme.⁶⁷ Moreover, even given the 2000 *intifada* and October 2000 events in which Israeli security forces killed 13 Arab citizens, a 2001 survey reinforced these sentiments. Perhaps motivated by pragmatism and a desire to "equalize" their educational and economic opportunities with their Jewish counterparts, 60% of Arab youths expressed interest in the option of civilian service and 34% reported willingness to volunteer for such a service, given the option.⁶⁸

Recent renewed discussions about alternative national (civilian) service for Palestinian Arab citizens of Israel suggest the need for addressing the matter as part of the community's social agenda.

8. Fear of Intimacy

Ethnic and religious-based misperceptions and suspicions continue to taint relations between Arabs and Jews in Israel. In a small sample March 2005 survey which asked Jewish Israelis whether they would be "willing to live across the hall from an Arab family," 52.9% reported

⁶³ Stendel, *supra* 58, at 352.

⁶⁴ The Knesset Research and Information Center, Background Paper on National Service for Minorities (March 10, 2003), at 4 (in Hebrew).

⁶⁵ *Id.* at 6. Taybe's current mayor, Salah Jabara is considered a "lone voice" in supporting national service for Arabs youths in Israel. Yoav Stern, *Civilian Service for Arabs instead of draft: only one Arab public persona openly supportive*, Ha'aretz, April 15, 2005, at 14A (in Hebrew).

⁶⁶ See e.g. Ittijah, Press Release, Israeli Government Plans Alternative Service for Arab citizens of Israel: Ittijah calls for united refusal, (April 16, 2004), available at www.ittijah.org/press/pr_04_04_16_en.html.

⁶⁷ Knesset background paper, *supra* 64, at 6-7.

⁶⁸ Stern, *supra* note 65.

unwillingness and 4.1% flat-out refusal.⁶⁹ Yet, about 70% replied that they are willing to work with Arab.

A common concern related to genuine integration is that it will lead to intermarriage. A small sample survey in March 2005 revealed that 78.5% of Jewish Israelis polled were unwilling to wed or have their children wed an Arab, and 8.9% altogether rejected the possibility.⁷⁰ Reflecting similar attitudes among the Palestinian Arab community, a 2004 survey by the National Security Studies Center found that only 15% of Arab citizens surveyed would agree for a family member to have a romantic relationship with a Jew.⁷¹

Since the State of Israel does not recognize religious inter-marriages, it keeps no official statistics. However, anecdotal evidence reveals the existence of relatively few intermarriages, estimated in the hundreds.⁷² Such couples often meet in universities or leftist political circles, two of the few forums where Arabs and Jews can interact as peers. Those who dare to cross ethnic boundaries face high levels of prejudice and pressure from their families and societies, and are often forced to sever close ties.⁷³

9. Religious Autonomy

As a Jewish state, Israel has no separation between state and religion, but officially purports to promote a religiously pluralistic society, composed primarily of the three main religions of Christianity, Islam and Judaism, with special protective status for the Druze sect.⁷⁴ Religious courts of the various religious communities in Israel preside over personal status matters, such as marriage, divorce, child custody, child support and burial.⁷⁵ Women's rights advocates, as well as the Working Group on Personal Status Law, have pointed out the discrepancy between the often gender-discriminatory religious law applied by these courts and national and international legal norms on women's rights. For example, since Palestinian Arab women citizens are prohibited from serving as judges in Muslim (Sharia) and Christian (Ecclesiastic) courts, they lack any input into reform of institutional policies which directly affect their lives.⁷⁶

Moreover, in its deference to local religious leadership, the state often fails to enforce laws designed to protect the human rights and civil liberties of Palestinian Arab women, a particularly vulnerable and neglected group. According to women's rights NGOs, in violation of the internationally-set 18 years of age as a minimum age for marriage, in 2001, 1272 Palestinian Arab girls were married by the age of 17, compared to 314 Jewish girls. Police officials admitted to investigating only 4 cases of child marriages in 2003 and none in 2004.⁷⁷

The state funds and provides the statutory basis for the operation of the Muslim, Druze,

⁶⁹ Geocartography Survey, *Omnibus Survey on Public Prejudices among Jewish Adults in Israel*, March 2005 (in Hebrew) (available upon request).

⁷⁰ *Id.*

⁷¹ *Survey of Trends Towards Extremism*, *supra* note 2, at question 26.

⁷² Sammy Smooha, *Arab-Jewish Relation in Israel as a Jewish and Democratic State* in TRENDS IN ISRAELI SOCIETY 279 (Ephraim Shavit and Ze'ev Shavit eds., 2001).

⁷³ See e.g., DAVID K. SHIPLER, ARAB AND JEW: WOUNDED SPIRITS IN A PROMISED LAND 436,440, 450 (rev. ed. 2002).

⁷⁴ Raday, *supra* 32, at 492.

⁷⁵ Islamic Family Law, Legal Profiles: Israel, Emory School of Law available at <http://www.law.emory.edu/IFL/index2.html>.

⁷⁶ CEDAW alternative report, *supra* 41, at 43.

⁷⁷ *Id.* at 43-44.

Christian and Rabbinical (Jewish) religious courts. In a precedent-setting decision in 2000 addressing the lack of public funds allocated to Arab cemeteries, the High Court ruled that the state must provide proportionately equal budgets to all religions.⁷⁸ Although important in scope, this decision comes too late for hundreds of religious sites, which, according to organizations working to preserve holy sites to Palestinian Arabs, include some 249 holy sites, including churches and mosques that were either destroyed or converted to synagogues, and at times to cattle pens and entertainment centers.⁷⁹ Moreover, the state restricts and at times voids the rights of Muslims who wish to manage their religious property (*waqf*) and nominate their own religious judges (*qadi*).⁸⁰

Given the official Jewish nature of the state of Israel, no Christian, Muslim or Druze holidays are officially recognized by the State. However, legislation requires employers to grant days off for the holidays of other religions.⁸¹

⁷⁸ Adalah, Supreme Court Petitions: Religious Rights: H.C. 1113/99, Adalah, et. al. v. Minister of Religious Affairs, et. al., P.D. 54 (2) 164, available at <http://www.adalah.org/eng/legaladvocacyreligious.php>

⁷⁹ See e.g., Arab Association for Human Rights (HRA), Sanctity Denied (2004), at Appendix B, available at http://www.arabhra.org/publications/reports/PDF/sanctitydenied_english.pdf; Al Aqsa Alaqa Association for the preservation of Islamic Consecrated property (Waqf), Background, available at http://www.aqsa-mubarak.org/?cat_id=130&page_id=503.

⁸⁰ Azmi Bishara, *supra* note 9, at 37.

⁸¹ Raday, *supra* 32, at 483.

CHAPTER 3 RELATIONS WITH PALESTINIANS IN WEST BANK /GAZA

1. Interaction and Relations

The 1948 war, known to the Palestinians worldwide, as “al-Nakba,” the catastrophe, led to the dispossession and separation of Palestinians across boundaries. Whereas the majority, about 80%, of Palestinians fled or were forcibly expelled from Israel, the remaining Palestinians, known in the Arab world as the “1948 Arabs” or “1948 Palestinians,” 25% of whom are internally displaced, were issued Israeli citizenship.¹

The Palestinians who hold Israeli citizenship and Palestinians who live under Israeli military occupation in the West Bank and Gaza, constitute “two wings of the same bird,” the same people who once inhabited the whole of historic Palestine.² Yet, the Green Line, which separates Israel from the occupied West Bank, has divided Palestinians, who form a cohesive ethnic and national group, into two groups of vastly different social, political and economic status and standing.³

Between 1948 and 1967, the Palestinian community in Israel was disconnected from its counterparts in the West Bank, Gaza and in neighboring Arab countries. Military control over Arab citizens in Israel severely curtailed their ability to travel within the borders of Israel and across “enemy borders” as defined by Israel,⁴ which deepened their isolation. After the establishment of the state Israeli law prohibited Israeli citizens from having any contact with “enemy states,”⁵ and the only channel of communication between divided families was through Israeli and Arab radio stations.⁶ The physical separation, enforced by military and legal means, fragmented the Palestinian people into several groups, each bound to face a different political future.

With the end in 1966 of the military rule over Palestinian Arabs in Israel and a year later Israel’s seizure of the West Bank and East Jerusalem, and later the Gaza Strip, communities were able to re-establish familial, cultural, national and economic ties. Despite protest over the Israeli occupation of these areas, Arab citizens of Israel welcomed the opportunities for family reunification, the exchange of labor and goods, and education at Arab universities, as no state-sanctioned Arabic language universities exist within Israel.⁷

As communities grew closer again, marriages between Palestinian citizens of Israel and Palestinians living in the Occupied Territories became more common. However, the

¹ See Mustafa Kabha, *The Conspiracy and the Victim*, in KAFR KASSEM: MYTH AND HISTORY 106 (RUVIK ROSENTHAL ED., 2000).

² Interview with Sheikh Ibrahim Sarsur, Islamic Movement, in Kafr Kassem, Israel (April 14, 2005).

³ The Green Line is the 1949 armistice line established by the Rhodes Agreements. Valerie M. Leon, *Geography in Israel and the West Bank* (Middle East Institute, 2002), available at <http://www.mideasti.org/articles/doc52.html>.

⁴ See Part III on Historical Background.

⁵ See e.g. 1948 Emergency Regulations (Foreign Travel) Law; Prevention of Infiltration (Offences and Jurisdiction) (Amendment) Law, 5709-1948.

⁶ Interview with Jafar Farah, Director, Mossawa Center, in Haifa, Israel (April 29, 2005).

⁷ Interview with Sheikh Ibrahim Sarsur, *supra* note 2. For some years after 1967, Muslims from Israel could attend religious study in the Occupied Palestinian Territories (OPT), at times with State assistance, whereas *Imams* from the OPT could deliver sermons in Israel. The exchange allowed Muslim Arab citizens of Israel to re-connect with the greater Muslim world and bolstered their religious identity. See Abou Ramadan, *Judicial activism of the Shari’ah appeals court in Israel (1994-2001): Rise and Crisis*, 27 *FORDHAM INT’L L.J.* 254, 258 (2003).

assumption of families that such marriages will strengthen ties and support has been effectively invalidated. While Palestinian couples have long experienced difficulties in obtaining permits to join their spouses in Israel, since 2003, the Nationality and Entry into Israel Law has prohibited legal residency status to all West Bank/Gaza Palestinians married to Israeli citizens. According to Israel's Ministry of Interior, the retroactive law applies to 21,298 families, affecting about 100,000 individuals.⁸

Given the separate economic conditions imposed by the relatively wealthy Israel on the poor Occupied Territories, Palestinians from the West Bank and Gaza provided a pool of low-wage laborers (dependent on Israel issuing work permits). Cheaper food products and other goods could be purchased in the West Bank and Gaza.

The 1982 massacre of Palestinians in the Sabra and Shatila refugee camps in Lebanon greatly impacted all Palestinians and contributed to a stronger Palestinian identity among the Arab community in Israel, who strongly condemned the involvement of the Israeli government in facilitating the attack.⁹

The 1987 *intifada*, the first popular uprising by Palestinians in the Occupied Palestinian Territories, and later the 2000 *Al Aqsa intifada*, galvanized the national bond between Palestinians in the Occupied Territories and those within Israel and strengthened the latter's resolve to be part of any final settlement of the Palestinian issue.¹⁰ The first *intifada* of 1987 also united Palestinians, on both sides of the Green Line, in their rejection of Israeli occupation as well as dissatisfaction with the ability of the exiled Palestinian leadership to improve their situation.

Using their leverage as Israeli citizens, Palestinian in Israel extended their moral, humanitarian and political support, characterized by solidarity demonstrations, general strikes (like the one called by the High Follow-up Committee for Arab Citizens in 2000), boycotts of political elections, raising awareness of the Palestinian perspectives within Israel, and sending food, medicines, and funds. Due to physical proximity and communal contacts, many of the humanitarian shipments from Palestinian Arabs in Israel were able to reach the Palestinians in the West Bank even when international humanitarian aid was blocked at the border, as in the case of the siege of Jenin in April 2002. Palestinian Arab individuals and organizations in Israel also engage as active participants in the Jewish-Arab peace movement.

Reinforcing social efforts, Arab political parties within Israel organized to support peaceful resolutions of the conflict. With the eruption of the first *intifada* in 1987, Arab university students in Israel increasingly organized demonstrations and on-campus discussions to raise the Israeli-Palestinian issue and the injustice of the ongoing Israeli occupation.¹¹ The preparations leading up to the 1991 Madrid Peace Conference marked the first time that PLO leaders and Arab members of the Israeli Parliament (MKs) held public coordination meetings, suggesting close collaboration between the respective leaderships about Palestinian

⁸ Mossawa Center, Petition: Call to Repeal Israeli Discriminatory Citizenship Law (2003) available at <http://www.petitiononline.com/mossawa/petition.html>.

⁹ Interview with Jafar Farah, *supra* note 6. Israel allowed Lebanese Phalangist forces to enter the camps and Israeli soldiers reportedly witnessed the incident, but stood idle, as between 700 to 2,000 Palestinians, were massacred. Human Rights Watch, Israel: Sharon Investigation Urged, Background (June 23, 2001), at <http://hrw.org/english/docs/2001/06/23/isrlpa97.htm>.

¹⁰ Alexander Bligh, *The Final Settlement of the Palestinian Issue and the Position of the Israeli Arab leadership*, in *THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE* 292 (Alexander Bligh ed., 2003).

¹¹ Interview with Jafar Farah, Director, Mossawa Center, in Haifa, Israel (May 6, 2005).

concerns in Israel and the Occupied Territories.¹² For example, utilizing his contacts and knowledge of both cultures, MK Ahmed Tibi carried out secret negotiations with the PLO leading up to the Oslo Accords.

While invested with great hope, the subsequent 1993 Declaration of Principles (DoP) on Interim Self-Government Authority between Israel and the PLO, which recognized the right to Palestinian self-determination, also solidified a simultaneous trend of fragmenting the Palestinian people into three major groups: the 1948 Palestinians (Palestinian Arab citizens of Israel), the 1967 Palestinians (residents of the West Bank, East Jerusalem and Gaza) and Palestinians in the Diaspora.¹³ In the current Israeli political discourse, these artificially-created sub-groups have been further fragmented to Palestinians of East Jerusalem, as part of Israeli-annexed Jerusalem, whereas the Palestinians of Gaza and the West Bank are considered separate entities in light of Israel's disengagement plan from the Gaza Strip. Since 1993, relations between the Palestinians in Israel and in the West Bank/ Gaza are characterized by the parallel struggle of each community with its own internal issues, while civil society and private actors interact to bridge mutual concerns, and the PA oversees and represents the West Bank and Gaza.

Mutual respect between community and religious leaders has also been evident from invitations to Palestinian citizens of Israel to address internal disputes in the West Bank and Gaza. In the late 1990s, Arab community leaders from Israel helped to quell a volatile situation in Gaza, in which PA forces killed 12 Palestinians at a post-Friday prayer demonstration. By bringing together the aggrieved parties, including PA chairman Arafat, the representatives insisted on a peaceful resolution that included compensation to the families and a refocusing on the ultimate goal of a Palestinian state.¹⁴

2. Separation Barrier/ Wall

The recent controversial construction of the barrier ("security fence" to the Israel government and "apartheid wall" to the Palestinians) separating Israel from the Palestinian territories has physically and practically torn apart the Palestinian community on both sides of the green line. While much has been written about the adverse impact of the wall on the Palestinians in the West Bank, little has been documented about the impact on the community on the Israeli side of the Green Line.

Despite censure by the 2004 International Court of Justice (ICJ) for trespassing on Palestinian lands, and a rerouting ordered by the Israeli High Court, construction continues of the 620 km wall, which at places rises to 8 meters of concrete.¹⁵ The wall will affect 220,000 Palestinians in 22 communities in East Jerusalem, where most Palestinians hold special status as Israeli residents. About 24,194 Palestinians in 14 communities west of the wall will be affected. While their lands will effectively be annexed to Israel, their status will remain that of West Bank residents.¹⁶ In all affected communities, access to schools, clinics, community holy sites and other services has become onerous, if not impossible.

¹² See Part V, Chapter 1, on Peace Initiatives.

¹³ Ameer Makhoul, *The Essence of Israel and the Divided Solutions* (2002), originally published in Arabic in *al-Adab* (Summer 2002).

¹⁴ Interview with Sheikh Ibrahim Sarsur, *supra* note 2.

¹⁵ B'tselem, Separation Barrier: Background and Statistics, at http://www.btselem.org/English/Separation_Barrier (last visited May 5, 2005)

¹⁶ *Id.* The total number of Palestinians negatively affected by the wall is 474,817.

At least three Palestinian communities, which were artificially divided by the 1949 armistice line (Green Line), consist of the same families divided by citizenship: west of the Green Line are citizens of Israel and east of it are West Bank inhabitants. In one such locality, Baqa'a al-Gharbiya, the wall has effectively destroyed the vibrant market on the eastern side of the wall, from which many Palestinian Arab citizens used to receive their livelihood as well as shop for goods. Reportedly, about 350 stalls and business previously thriving at the market have gone bankrupt. Families are unable to visit each other without facing circuitous roads, military checkpoints, and special hard-to-come-by authorizations. In East Jerusalem, the wall created absurd situations in which a husband from the West Bank and a wife with East Jerusalem residency now live in their own home illegally.¹⁷

On the advocacy front, Arab MKs, such as Ahmed Tibi, Muhammad Barakeh and Issam Makhoul, have been vocal opponents of the wall. Tibi and Barakah traveled to the Hague to register their protest as the ICJ deliberated on the legality under international law of the separation wall. Tibi told an Israeli newspaper "the barrier is creating an apartheid reality on the West Bank. It only adds to the suffering of the Palestinians and prevents the two-state solution from emerging."¹⁸

3. NGO Cooperation

Recent years have ushered in a new era of cooperation and coordination between grassroots Palestinians groups in Israel and the West Bank/ Gaza wishing to work as a "people," rather than artificially fragmented communities whose common interests are disregarded.¹⁹ For example, seeking to move relations from solidarity to task-sharing, in the summer of 2000 a liaison and coordination office was formed between networks of Palestinian Non-governmental Organizations across the Green Line.²⁰ Palestinian women's rights groups based in Israel have been working with sister organizations in the West Bank/ Gaza and in Palestinian refugee camps in Jordan and Lebanon to promote gender-sensitive policies, research and capacity. Moreover, Palestinian women from Israel and the West Bank/ Gaza have been strong partners in joint pro-peace activities.²¹

Given that organizations working in the West Bank and Gaza are subject to severe restrictions imposed by the occupation, Israel-based Palestinian groups have been working to share the concerns of Palestinians beyond charity work. Alternatively, with West bank organizations' superior command of capacity building skills, joint trainings on strategic planning, development and income generation have greatly benefited Palestinian community organizations in Israel.²²

¹⁷ See e.g., Amnesty International, *Israel and the Occupied Territories Torn Apart: Families split by discriminatory policies*, MDE 15/063/2004 (July 13, 2004) at <http://web.amnesty.org/library/Index/ENGMDE150632004?open&of=ENG-2D2>.

¹⁸ BBC Monitoring International Reports, *Israeli Arab MKs to visit the Hague, Italy to press anti-barrier case* (Feb. 20, 2004) citing Ma'ariv web site, Tel Aviv, Feb. 19, 2004.

¹⁹ Interview with Ameer Makhoul, Director, Ittijah, Union of Arab community based associations, in Haifa, Israel (April 11, 2005).

²⁰ This network also included the Coordination Forums of NGOs working with Palestinians communities in Lebanon. Ittijah, *Conferences: The Palestinian NGOs' Declaration: Cyprus Conference*, July 20- August 1, 2000, available at http://www.ittijah.org/about/conf_cyprusstat.html

²¹ Telephone interview with Nabila Espanioly, Director, Al-Tufula: Pedagogical Center and Multipurpose Women's Center (May 15, 2005).

²² Palestinian organizations working in the West Bank and Gaza are generally better developed partly due to international development aid, but also because they had to fulfill the role of service providers and liaison with the community. Interview with Ameer Makhoul, *supra* note 19.

4. Palestinian Authority

With the arrival of Yasser Arafat in the Palestinian Occupied Territories in 1994,²³ the stage was set for establishing formal political relations between the Arab leadership in Israel and the Palestinian Authority. These relations have included exchanging political assessments and analyses, presenting and supporting Palestinian perspectives within Israel, and lobbying on behalf of the Palestinian cause within the Knesset. Ahmed Tibi, prior to forming the Arab Movement for Renewal (Ta'al) political party in 1996 with the hope of uniting Arab parties in Israel, also served as an advisor to Yasser Arafat. However, Palestinian Arab citizens of Israel have no official representation in the PLO, the PA or other formal institutions.

The establishment of the Palestinian Authority (PA), following the 1993 Declaration of Principles, to oversee the West Bank and Gaza cemented the existence of distinct political leadership for Palestinians in Israel and those in the West Bank and Gaza. The PA and its governing bodies constitute, by definition, elected representatives of Palestinians in the West Bank and Gaza.

The 1995 Election Law for the president and council members of the Palestinian Authority specifies that eligible voters include any person born in Mandatory Palestine, Gaza, West Bank, or Jerusalem, or who has one or more direct ancestors who has, or is married to such a person. The only Palestinians excluded from voting in the elections are those who hold Israeli citizenship.²⁴ This provision remained unchanged during the presidential elections of January 9, 2005, following the death of President Arafat. In accordance with the separation of political leaderships over Palestinians in Israel and the West Bank/ Gaza, the majority of Palestinians in Israel, about 68.8%, do not believe that they should be represented in PA bodies.²⁵

Moreover, the Palestinian leadership's formal recognition of the High Follow-up Committee for Arab Citizens as a legitimate body representative reflected the general consensus within the Palestinian Arab community in Israel of political independence from the Palestinian Authority, especially regarding the political agenda of equal rights within Israel.

The independence in the political sphere, at times, has led to criticism by the Arab leadership in Israel of Yasser Arafat and the Palestinian Authority. MK Azmi Bishara, for example, has openly criticized Arafat and his supporters for non-democratic and corrupt ways, and called for a greater role for the PA's Legislative Council, as an elected representative of the people.²⁶ Other tensions revolved around Syria's seeming preference for Bishara's pan-Arab platform over Arafat's narrow nationalism.

During the October 2000 demonstrations by Palestinian Arab citizens in Israel, Arafat called on the local leadership to halt their protest for fears that it would undermine the Palestinian struggle for a two-state solution. Concerned that Israel would use these demonstrations as a

²³ Yasser Arafat, Biography, available at <http://nobelprize.org/peace/laureates/1994/arafat-bio.html>.

²⁴ Palestinian National Authority Law no. 15, of 1995 Relating to the Elections, Art. 7(2).

²⁵ As'ad Ghanem and Sarah Ozacky-Lazar, *The Status of the Palestinians in Israel in an Era of Peace* Part of the problem but not part of solution, in *THE ISRAELI PALESTINIANS: AN ARAB MINORITY IN THE JEWISH STATE* 277 (ed. Alexander Bligh, 2003).

²⁶ See Christopher Dickey, Interview with Azmi Bishara, Newsweek International, (Aug. 5, 2002), available at http://www.azmibishara.info/interviews/nw_20020805.html.

pretext to take even stricter positions with the PA, Arafat requested that the *intifada* be restricted to the West Bank and Gaza only.

Considered the father and leader of the Palestinian cause, the Palestinian Arab community in Israel deeply mourned the death of Arafat on November 11, 2004. According to a survey conducted among Palestinian Arab citizens of Israel and Palestinians in the West Bank and Gaza, about a month after the death of Arafat, Arafat's image among the Palestinian in Israel is more positive than among the Palestinians in the West Bank and Gaza, both in terms of Arafat's contribution to advancing the peace process and in establishing a sound democratic government.²⁷

6. The Palestinians Liberation Organization

Established in 1964, the Palestinian Liberation Organization (PLO) aims to establish an independent Palestinian state and represent the Palestinian issue worldwide. Article 5 of the PLO charter defines Palestinians to include the "Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it or have stayed there" and their descendants.²⁸ In its first eight years, the PLO held no discussion and issued no formal statement concerning the Palestinian community within Israel. In 1972, the PLO published, "Discrimination against Arabs in Israel in Education," designed for international audiences.²⁹ A year earlier, three (former) Arab citizens of Israel joined the PLO as representatives of the "Palestinian Arabs under the 1948 occupation."³⁰

The 1976 Land Day general strike and protest by Palestine Arab citizens of Israel against land confiscation gained wide publicity in PLO publications and established the Arab minority in Israel as an active partner in the struggle for the rights of Palestinians.³¹ Land Day became the only event coordinated by Arab citizens of Israel that became part of the collective national memory of the Palestinian people.

Primarily, however, the PLO has limited its work to addressing the situations of Palestinians in the West Bank and Gaza. Grassroots efforts evolved into the first *intifada* of 1987, an uprising by residents of the Occupied Territories against the Israeli occupation, and in part against the inaction and inability of the PLO to bring forth a just solution to their plight.³²

The Palestinian National Council (PNC), as a parliament of the Palestinian people, includes only representatives of Palestinians in the Diaspora, the West Bank and Gaza. Palestinian representatives from Israel were excluded primarily because of hostile relations between Israel and the PLO.³³

²⁷ See Ephraim Yaar and Tamar Hermann, *Postmortem: Arafat's Collective Image among the Palestinian and Israeli Publics* (Tami Steinmetz Center for Peace Research, Tel Aviv University, Dec. 2004) at <http://spirit.tau.ac.il/socant/peace/survey/arafatE.rtf>.

²⁸ Resolutions of the Palestine National Council, July 1-17, 1968, available at http://wikisource.org/wiki/Palestinian_Covenant.

²⁹ Hebrew University, Harry S. Truman Research Institute, Gideon Shilo, Israeli Arabs in the Eyes of the Arab States and the PLO (1982), at 72.

³⁰ *Id.* at 75. For example, Uri Davis, a Jewish Israeli, and Arab citizens Fouzi Nimer, Sabri Jevies, and Mohammad Darwish have publicly joined the PLO. However, while Davis retains his citizenship by virtue of being Jewish, Fauzi was expelled from Israel and Darwish is unable to even visit Israel. Interview with Jafar Farah, *supra* note 6; see also Uri Davis, In Memoriam: An Appreciation of Yasser Arafat , Ittijah newsletter, (Dec, 30, 2004) at <http://www.ittijah.org/newsletter/uriarticle.html>.

³¹ Shilo , *supra* 29 ,at 85.

³² See Walid Khalidi, *Toward Peace in the Holy Land*, 66 Foreign Affairs (Spring 1998).

³³ Ghanem, *supra* note 25, at 277.

During the 1993 Oslo Peace negotiations, the PLO shunned any responsibility for publicly advocating on behalf of Palestinian citizens of Israel, effectively leaving them without any representation in negotiations that would directly affect their collective interests, national aspirations as well as daily reality. Overall, the PLO's neglect of Palestinian Arabs in Israel shaped the community view that it is up to them to develop and lead a domestic national political agenda.³⁴

³⁴ See Part V, Chapter 1 on Peace Initiatives.

CHAPTER 4 RELATIONS WITH THE ARAB WORLD

The launch of the 1991 multilateral peace talks between Israel and several Arab states provided new opportunities for renewed relations between Palestinian Arab citizens of Israel and neighboring Arab countries. To date, however, only Egypt and Jordan have concluded peace treaties with Israel. Given ongoing repressive Israeli policies in the West Bank/ Gaza and its uncompromising position on the Golan Heights, current chances for the conclusion of similar treaties with Lebanon and Syria are slim.

Most recently, Prime Minister Ariel Sharon's unilateral plan to disengage from the Gaza Strip has mobilized Arab members of the Israeli Knesset to involve Arab countries in addressing the flaws in the plan. During a March 2005 conference on the disengagement plan in Abu Dhabi, MKs Ahmed Tibi and Muhammad Barakeh, both of Hadash-Ta'al,¹ called on Arab governments not to reward Israel by normalizing relations with it, warning that the disengagement plan will leave the Gaza Strip isolated from the West Bank, and effectively under siege from land, air and sea.²

Israeli laws and regulations dating back to the establishment of the state in 1948 continue to prohibit contact with Arab states, defined in law as "enemy states." According to the 1948 Prevention of Infiltration Law enemy states include "Lebanon, Syria, Egypt, Trans-Jordan, Saudi Arabia, Iraq and Yemen or any part of Eretz Israel outside Israel."³ Israeli citizens who wish to visit "enemy states" must obtain permission from the Ministry of Interior, with narrow exemptions for individuals who carry Israeli diplomatic or service passports.⁴ While the arcane law has yet to be updated to reflect peace treaties and the open relations with Egypt and Jordan, it was invoked in 2001 to charge MK Azmi Bishara (Balad) for visits to Syria. For details, see the section on Syria and Palestinian Arab citizens of Israel, below.

In May 2005, the Ministry of Industry, Trade and Employment cited the Ordinance against Trade with the Enemy to ban a bookstore from importing books printed in Lebanon and Syria, despite formerly allowing such imports via Jordan and Egypt.⁵ The controversial ban outraged community members who called the ban an attempt to censure Arab culture and literature.

Historically, the complex regional conflicts in the Middle East have created ambivalent relations between Arab governments and the Palestinian people in general, and the Palestinian community in Israel in particular. In addition to blaming British colonialism and the Zionist movement, the Palestinian community that remained in Israel after 1948, also holds responsible the Arab regimes, especially, Egypt, Jordan and Iraq, for its tragedy of displacement and dispossession. As Arab armies entered Mandatory Palestine in protest at the

¹The Democratic Front for Peace and Equality (Hadash) and the Arab Movement for Renewal (Ta'al) ran on a joint list in the 2003 parliamentary elections and gained three seats. See Knesset official website, at http://www.knesset.gov.il/faction/eng/FactionPage_eng.asp?PG=125.

² See e.g. Roe Nachmias, *'Don't reward Israel' Arab Knesset members urge Arab countries not to normalize ties with Israel in response to Gaza exit*, Ynet news, March 3, 2005, available at <http://www.ynetnews.com/articles/0,7340,L-3053510,00.html>.

³ Prevention of Infiltration (Offences and Jurisdiction) (Amendment) Law, 5709-1948, Art. 2A

⁴ Emergency Regulations (Foreign Travel) Law, 5709-1948, Art. 7(c).

⁵ Ruth Sinai, *Store banned from importing books printed in Lebanon, Syria, Ha'aretz*, May 5, 2005, at <http://www.haaretz.com/hasen/spages/572998.html>.

1947 UN two-state partition plan, some Palestinians recall being told by Arab leaders to leave Palestine “until the end of the war,” as many did, thereby embarking on the long journey of refugehood. Notably, however, many more Palestinians were expelled or terrorized into leaving by Israeli forces. Palestinian leaders who advocated on behalf of the UN two-state partition were persecuted and arrested by the Arab regimes.⁶

Apart from lack of coordination among the seven Arab armies in 1948, Palestinians in Israel bitterly recount idle Arab soldiers who either lacked bullets or claimed they had received no fighting orders. Arab leaders are perceived to have relinquished Palestinian villages to Israel with minimal or no fight with the Israeli army, leading to claims about behind-the-scenes arrangements between the Arab states and the Zionists, and Britain and France, the former colonial rulers of the Middle East.⁷ See the section on Relations between Jordan and Arab Palestinian Citizens of Israel, below, for such an example.

1. Palestinian Refugees in Arab Countries

Palestinians who fled or were expelled from Israel faced harsh conditions and suffered from discriminatory policies in neighboring Arab states. Intolerant Arab regimes frequently faulted their Palestinian minorities for promoting internal instability and ongoing regional flare-ups. By seeking to highlight the Palestinian plight, all Arab states, except Jordan, refused to grant citizenship to Palestinians, stating that resettlement would dilute the collective Palestinian demand for the right of return.⁸ In Lebanon, in which Palestinian refugees suffer the harshest conditions and greatest hostility,⁹ a 1995 survey revealed that 75% of Lebanese reject the resettlement of Palestinians refugees in Lebanon because it would damage the country, could lead to a resumption of the Lebanese civil war, hurt the economy and lead to demographic imbalances.¹⁰

Jordan, Lebanon and Syria are also implicated in massacres of Palestinians on their soil. Following clashes with the Popular Front for the Liberation of Palestine, in September 1970, remembered as “Black September,” the Jordanian army shelled Palestinian neighborhoods and refugee camps resulting in thousands of Palestinian casualties.¹¹ In 1976 Lebanese Phalangist forces, backed by Syria, massacred thousands of Palestinian refugees living in the Tali Zaater refugee camp.¹² In 1982, Israel permitted the entry of the Lebanese Phalangist forces into the Sabra and Shatila refugee camps in Lebanon, and Israeli soldiers reportedly stood idle as the

⁶ Interview with Jafar Farah, Director, Mossawa Center, in Haifa, Israel (April 29, 2005).

⁷ *Id.*; see generally, AVI SHLAIM, *THE POLITICS OF PARTITION: KING ABDULLAH, THE ZIONISTS, AND PALESTINE, 1921-1951* (1990). Israeli Ministry of Foreign Affairs, *Israel-Jordan Armistice Agreement*, April 3, 1949, available at

<http://www.mfa.gov.il/MFA/Foreign%20Relations/Israels%20Foreign%20Relations%20since%201947/1947-1974/Israel-Jordan%20Armistice%20Agreement>. Western colonial powers carved out Middle Eastern territories pursuant to the 1916 Sykes-Picot agreement, in which Britain administered Palestine, trans-Jordan, and Iraq, and France controlled Lebanon and Syria. See Avalon Project at Yale Law school, *Sykes-Picot agreement*, available at <http://www.yale.edu/lawweb/avalon/mideast/sykes.htm>.

⁸ Elia Zureik, *Palestinian Refugees and the Peace Process*, (Institute of Palestine Studies, 1996), at 30.

⁹ See generally, Wadie Said, *The Palestinians in Lebanon: The Rights of the Victims of the Palestinian-Israeli Peace Process* 30 COLUM. HUMAN RIGHTS L. REV. 315 (Spring 1999).

¹⁰ Zureik, *supra* note 8, at 10.

¹¹ ICG, *Conflict history: Jordan* (updated Sept. 25, 2004) at

http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=54.

¹² See Charles Glass, *Tribes with Flags: A Journey Curtailed* 379-80 (1990).

Phalangist forces massacred between 700 and several thousands Palestinians, depending on the source.¹³

Initially, some Arab regimes rejected the idea of an independent Palestine. Syria's Ba'ath party advocated a greater Syria vision, which included Palestine; Nasser of Egypt called for pan-Arabism; and Jordan, at some point, opted for a confederation agreement over the West Bank.¹⁴ Jordan, which ruled the West Bank until Israeli occupation in 1967, did not formally remove its claim to the area until 1988,¹⁵ and at times fought to suppress Palestinians' self-determination rights.

2. Palestinian Arab citizens of Israel and the Arab world

Until the late 1960s, official Arab media and public opinion considered the Palestinians who remained in Israel and received Israeli citizenship, as traitors and conspirators.¹⁶ The Arab military defeat in the 1967 war, in which Israel occupied the West Bank and East Jerusalem (from Jordan), the Golan Heights (from Syria), the Gaza Strip and Sinai (from Egypt), changed Arab attitudes toward the Palestinians in Israel from contempt to sympathy. While some elements in Arab society continue to question the community's "passivity" in the national Palestinian struggle, general Arab public opinion falls along one of two views. Some admire the Palestinian community in Israel for bravely staying in their homeland, and for protecting of the houses and lands of Palestinian refugees in the Arab world and beyond.¹⁷ Many others in the Arab world are unaware either of the existence or reality of Palestinian Arab citizens of Israel; some assume that they are Jewish, and most have trouble conceiving of "Israeli Arabs."¹⁸ Because of a lack of first-hand interactions with Arab Palestinian citizens of Israel, Arab intellectuals who are otherwise intimately familiar with Israeli (Jewish) politics and are generally aware of the community's unequal status in Israel often do not fully appreciate the community's unique identity and circumstances.¹⁹

Israel's prohibition on contact with "enemy states," which include most Arab countries, has led to the inability of Palestinian in Israel to communicate with Arabs and Palestinians in the Arab world. The imposed isolation led to decades of gross misperceptions and ignorance about each other's communities and aspirations. During the early years of the state of Israel, one of the few channels of communication was through Israeli and Arab radio stations, over which Palestinian families in Israel could send their greetings and provide information to their refugee families in neighboring countries.²⁰

Seeking to strengthen ties between the Palestinian community in Israel and the Arab world, in April 2004 the Arab League held a conference in Cairo on the topic. The conference was the culmination of efforts by NGOs and political parties within Israel.²¹ Primarily attended by

¹³ See e.g., Human Rights Watch, *Israel: Sharon Investigation Urged, Background*, June 23, 2001, at <http://hrw.org/english/docs/2001/06/23/isrlpa97.htm>.

¹⁴ Interview with Jafar Farah, *supra* note 6.

¹⁵ Zureik, *supra* note 8, at 32.

¹⁶ Interview with Jafar Farah, *supra* note 6.

¹⁷ *Id.*; See also Z'vi Barel, *What are Israeli Arabs? Are they Jewish?* Ha'aretz, May 25, 2004.

¹⁸ Barel, *supra* note 17.

¹⁹ *Id.*

²⁰ Interview with Jafar Farah, *supra* note 6.

²¹ Telephone interview with Nabila Espanioly, Director, Al-Tufula: Pedagogical Center and Multipurpose Women's Center (May 15, 2005).

representatives of NGOs, political movements and members of parliament from Egypt and the Palestinian community in Israel,²² the conference emphasized the need to view Palestinians in Israel as part of the Palestinian issue, not solely as an internal Israeli matter.²³ Conference participants emphasized links among the Palestinian and Arab communities, but not normalization of relations with Israel as long as it continues to occupy Palestinian lands. Participants also called for ongoing dialogue between the Arab League, Arab NGOs and Palestinian civil society in Israel, increased access by the Palestinian community in Israel to educational opportunities and cooperation in research and sciences.²⁴

While several members of Knesset and representatives of the Islamic Movement in Israel attended the conference, other leaders, including the High Follow-up Committee for Arab Citizens in Israel and MK Azmi Bishara (Balad) declined attending, pointing to the unclear aim of the event and the questionable credibility of the Arab League on the Arab street.²⁵

The isolation of the Palestinian Arab community from the rest of the Arab world, has deeply curtailed religious relations with Islamic centers in the region.²⁶ Muslims in Israel were cutoff from religious scholarship and isolated from the diversity of Muslim communities in the region. The Islamic Movement, a religious political movement in Israel, has faced severe restrictions to its ability to engage with likeminded organizations and institutions in Arab countries, including in the Gulf states. The Islamic Movement in Israel consists of two factions, the southern and northern branch. The head of the northern Islamic Movement, Sheikh Ra'ad Salah, who refrains from participation in Israeli national elections, has had to contend with travel bans, arrests and a trial on "illegal financial activities" and an administrative arrest between 2003 and 2005.²⁷

The following section will highlight key issues and dynamics between Palestinian Arab citizens of Israel and the four Arab countries which border Israel.

i) Egypt and Arab Palestinian citizens of Israel

Egypt remains a major powerhouse in the Middle East and an influential actor in the Israeli-Palestinian conflict. The first Arab country to sign a peace agreement with Israel in 1978, it has maintained a relatively "cold peace" with Israel. Recently, however, Egypt has become increasingly involved in mediating agreements between Israel and other Arab countries and between Israel and the Palestinians, including in security arrangements over the Gaza Strip and

²² MKs in attendance included Ahmed Tibi (Arab Movement for Renewal), Muhammad Barakah (Hadaash-Ta'al), Jamal Zahalka (Balad), Taleba-Sanna (United Arab List), as well as representatives of the Islamic Movement. David Rudge, *Israeli Arab leaders spilt over Arab League invite*, The Jerusalem Post, May 2, 2004.

²³ Ittijah (Union of Arab Community Base Associations), Newsletter: Arab League conference on relationships between Palestinians of 48 and the Arab world, May 17, 2004, at www.ittijah.org/newsletter/newsletter04_05_17.html#2.

²⁴ *Id.*

²⁵ See e.g., Rudge, *supra* note 22.

²⁶ See e.g., Interview with Sheikh Ibrahim Sarsur, Islamic Movement, in Kafr Kassem, Israel (April 14, 2005).

²⁷ Yair Ettinger, *Plea deal secures Islamists' release*, Ha'aretz, Jan. 12, 2005 available at <http://www4.alternativenews.org/display.php?id=4294>; Arab Association for Human Rights, *Silencing Dissent: A report on the violation of the political rights of the Arab parties in Israel* (2002).

training of Palestinian security forces in conjunction with the Israeli withdrawal from Gaza.²⁸ As evidenced by discussions among Israel, Egypt, Jordan and the Palestinian Authority in Sharm el-Sheikh on February 8, 2005, Egypt, like Jordan, supports Israeli withdrawal as a step toward stability and peace. Egypt's support for the Israeli initiative, which has been criticized by several Arab parties in Israel for Israel's rejection of existing agreements and participatory negotiations with the Palestinians, included secret diplomacy with Arab and Jewish MKs to support, or at least not vote against the "disengagement plan" from Gaza.²⁹

Egypt's regional dominance is reflected in the attitudes of Palestinian Arab citizens of Israel. Former Egyptian president and the leader of pan-Arabism, Jamal Abdel Nasser, represents an important visionary for the Arab community in Israel. During his heyday of the 1950s and 60s, Palestinian Arab citizens of Israel sought his views on unifying the Arab world, whether on the radio or other available means of communication.³⁰ Though largely vilified and feared by Jewish Israelis as an enemy of the state of Israel, his death was commemorated by vigils in the Arab community.³¹

The 1956 Suez-Sinai war, in which France and Britain, with the help of Israel's attack on Sinai, attempted to recapture the Suez Canal after its nationalization by Nasser, signified a high point in the struggle against European imperialism.³² While largely a military defeat for Egypt, the Suez campaign positioned Nasser as a daring, victorious leader in the Arab world. Palestinian Arab citizens of Israel likewise hailed Nasser as a "liberator" from colonialism, which indirectly fueled the hope for the "liberation of Palestine." As with the rest of the Arab world, Arab citizens of Israel identified with the spread of Nasser's pan-Arabism (or Arab nationalism) doctrine in the region.³³

With the defeat of Arab states in the 1967 war, in which Israel captured the Sinai and Gaza desert from Egypt (the West Bank and East Jerusalem from Jordan and Golan Heights from Syria), Nasser defined the Palestinian issue and the "liberation of Palestine" as integral aspects and goals of pan-Arabism.³⁴ The Arab Bedouin community in the Naqab possesses the closest ties to Egypt, as many were displaced to Egypt and large populations reside in the Sinai desert, which was handed back to Egypt as part of the 1979 peace treaty between Egypt and Israel. However, Nasser, along with succeeding presidents Anwar Sadat and Hussnei Mubarak, have prioritized addressing the problem of Palestinians of the West Bank and Gaza and neglected the Palestinians in Israel.

²⁸ During Gaza withdrawal-related discussions between Israel, Egypt, Jordan and the Palestinian Authority in Sharm al-Sheikh in February 2005, Israel requested Egypt to deploy 750 troops along the Philadelphi route along the Gaza-Egypt border, an area known as a conduit for arms smuggling, as well as to train Palestinian security forces. See e.g. Hazel Ward, *Israel planning withdrawal from flashpoint buffer zone in Gaza*, Agence France-Presse, March 11, 2005, at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/VBOL-6ADCPV?OpenDocument>; Gideon Alon, Egyptian deployment deal must be approved by Knesset, Ha'aretz, May 4, 2005, at <http://www.haaretz.com/hasen/spages/572287.html>.

²⁹ Interview with Jafar Farah, Director, Mossawa Center, in Haifa, Israel (May 5, 2005).

³⁰ *Id.*

³¹ *Id.*

³² THE SUEZ-SINAI CRISIS 1956 RETROSPECTIVE AND REAPPRAISAL xi (Selwyn Ilan Troen and Moshe Shemesh, eds., 1990).

³³ Moshe Shemesh, *Egypt: From Military Defeat to Political Victory*, in THE SUEZ-SINAI CRISIS 1956 RETROSPECTIVE AND REAPPRAISAL 150,157 (Selwyn Ilan Troen and Moshe Shemesh, eds., 1990).

³⁴ *Id.* at 158.

The historic 1978 Camp David Peace Accord between Egypt and Israel, traded the Israeli-occupied Egyptian Sinai desert for peace and normalization.³⁵ However, while President Sadat recognized that there could be no peace without the resolution of the Palestinian issue,³⁶ the Camp David Accord only vaguely addressed the issue of Palestinians in the Occupied Territories, and avoided any mention of Palestinians living within Israel. The Accord greatly divided the Palestinian Arab community in Israel as many condemned it for failing to outline a just solution for the Palestinian issue and considered Egypt as traitors to the Palestinian cause.³⁷

When Israel began its military incursions into Lebanon in the early 1980s, many in the Palestinian Arab community in Israel related these invasions to the peace accord with Egypt. As the peace accord removed Egyptian threats on the southern border, Israel was emboldened to invade Lebanon with no fear of Egyptian intervention.³⁸ However, as Egypt was the first Arab state to open its borders to Israel, Palestinian Arab citizens of Israel greatly benefited from the renewed contacts with the Arab world, leading to important cultural and tourist exchanges. According to some estimates, about 40% of Palestinian Arab citizens of Israel visited Egypt following the signing of the peace agreement.³⁹ Tourism, especially to sea-side resorts in the Egyptian Sinai desert, is hugely popular with Palestinian Arabs in Israel. Though dampened by a series of resort bombings in October 2004 which claimed the lives of at least two Arab citizens of Israel, Sinai remains a tourist magnet for Arab citizens.⁴⁰

Though tinged with some suspicion, the Egyptian political leadership has extended invitations to Arab citizens to visit and exchange political views. However, Egyptian intellectuals and civil society leaders considered such contacts as attempts at “normalization” of relations with Israel which they reject because of the ongoing Israeli occupation and the lingering denial of the Palestinians’ right to self determination. Egyptian intelligentsia and community leaders have largely refused to visit Israel. Generally, not many Egyptians visit Israel, both because Egypt has not encouraged such visits and Israel continues to impose security and “demography”-based hurdles for Egyptian visitors to Israel.⁴¹

³⁵ Israeli Ministry of Foreign Affairs (MFA), Camp David Accord, Sept. 17, 1978, *available at* <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Camp%20David%20Accords> (last visited April 4, 2005). As a result of signing a peace agreement with Israel, Egypt was expelled from the Arab League and the Islamic Conference.

³⁶ During his historic visit to Jerusalem and speech to the Israeli Knesset on November 20, 1977, Egyptian president Anwar Sadat stated:

“...[T]he Palestinian people are entitled to legitimate rights and that the Palestinian problem is the core and essence of the conflict and that, so long as it continues to be unresolved, the conflict will continue to aggravate, reaching new dimensions....” Appendix A: President Anwar Sadat Address to the Israeli Knesset, November 20, 1977, *in* SADAT AND HIS LEGACY: EGYPT AND THE WORLD, 1977-1997 195-197 (Jon B. Alterman ed., 1998).

³⁷ Interview with Jafar Farah, *supra* note 29.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ During the Muslim celebration of Id el-Fitr in January 2005, 7,200 mostly Arab citizens of Israel visited Sinai, compared with 9,700 Israelis visiting in 2004. Zeev Klein, *193,000 Israelis traveled abroad in January*, *Globes: Israeli Business News* (online), Feb. 20, 2005, *at* www.globes.co.il; Orly Halpern, *Taba Hilton was oasis for Israeli Arabs*, Oct. 10, 2004, *The Jerusalem Post*.

⁴¹ Interview with Jafar Farah, *supra* note 29.

Given greater acceptance of Israel in the Arab world in light of the 1993 Oslo peace process, civil society and political dialogue has increased between Egyptians and Palestinian Arab citizens of Israel. Egyptian officials, such as the Minister of Foreign Affairs and the Head of the Security Forces, involved in mediating negotiations between Israel and the Palestinians, have held meetings with Arab leadership from Israel to discuss their views regarding the peace process.⁴² Egypt has also facilitated contacts between Israeli delegations and Syria by arranging transport via Egypt and visas for the delegations.

In 2002, prior to the Arab League-sponsored conference attempting to strengthen links between the Arab world and Palestinian Arabs in Israel (see above for details), a civil society conference in Cairo, facilitated by Ittijah, and sponsored by the European Union and People to People, helped establish working ties between Palestinian civil society organizations in Israel and their counterparts in the Arab world.⁴³ Given the platform of the participating organizations, the conference called for links with Palestinian Arab groups in Israel.

ii) Jordan and Palestinian Arab citizens of Israel

Jordan is home to the largest concentration of Diaspora Palestinians, who constitutes more than half of the Jordanian population,⁴⁴ and most hold Jordanian citizenship. Consequently, most Palestinians in Israel have some familial ties with the Palestinians in Jordan. The historic relations between Jordan and its Palestinian population and that of Israel have been characterized by some difficulties.⁴⁵ Jordan's handover of the Palestinian-populated "Triangle" area, and its 22 villages and 30,000 Palestinian residents, to Israel as part of the 1949 Rhodes Armistice agreement,⁴⁶ is cited as proof of the ease with which Arab leaders made land concessions to the new Jewish state, likely under the pressure of the former colonial rulers of the Middle East. In an extreme case of violent resentment, a Palestinian assassinated Jordan's King Abdullah on July 20, 1951, during a visit to the *al-Aqsa* mosque in Jerusalem, accusing him of betraying the Palestinian people and their rights.⁴⁷

Jordan had control of the West Bank and East Jerusalem until Israeli occupation in 1967. During this time, the Mandelbaum gate in East Jerusalem became the entry way for religious Palestinian Arabs from Israel to visit their places of worship in Jerusalem and Bethlehem and by special arrangement, to Mecca for religious pilgrimage.⁴⁸ However, access to the sites was very limited as both Israeli and Jordanian security forces had to authorize the validity of such

⁴² *Id.*

⁴³ Ittijah, background at <http://www.ittijah.org/about/about01.html> (last visited May 10, 2005).

⁴⁴ Palestinian Ministry of Health, Demographics 2003, at http://www.moh.gov.ps/pdf/dem_palestine2003.pdf.

⁴⁵ See brief description of Black September, *infra* note 10 and accompanying text.

⁴⁶ See e.g., Sammy Smooha, *The Divergent Fate of the Palestinians on Both Sides of the Green Line: The Intifada as a Test*, A paper presented as a conference: The Arab Minority in Israel: Dilemmas of Political Orientation and Social Change, Tel Aviv University, June 3-4, 1991.

⁴⁷ Jordan Prime Minister Office, About the prime Ministry, available at <http://www.pm.gov.jo/english/about.shtm>; Palestine Facts, Abdullah Assassination, available at http://www.palestinefacts.org/pf_1948to1967_abdulla.php (last visited May 5, 2005).

⁴⁸ King Hussein of Jordan facilitated travel to Mecca by Arab citizens of Israel by allowing their passage through Jordan using temporary Jordanian passports, which would be issued specifically for that purpose and surrendered upon re-entry into Jordan following the pilgrimage to Saudi Arabia. Interview with Sheikh Ibrahim Sarsur, *supra* note 26.

religious visits.⁴⁹

Jordan, under the leadership of King Hussein bin Talal, was the first Arab country to support the Palestinian community in Israel, even prior to concluding the 1994 peace treaty with Israel. Compared to Egypt, Jordan has been more willing to form economic, cultural, educational and political ties and exchanges with Israel and with Palestinian citizens. For example, with 70% of all Israeli exports to Arab countries going to Jordan, it remains Israel's largest trading partner in the Arab world,⁵⁰ most of which maintains a boycott on the importation of Israeli goods and services.⁵¹

Particularly after the signing of the 1994 peace agreement, both the current and past king of Jordan have met extensively with leaders of the Palestinian Arab community in Israel. In regular meetings with Jordanian officials Arab community leaders from Israel have addressed issues of common interest, ranging from Palestinian Arab citizens studying in Jordan to ongoing political development, such as the election of PA president Mahmmud Abbas and the implementation of Israeli-Palestinian agreements. In mid 2005, for example, delegations of Palestinian Arab leaders from Israel, including Abdul Wahab Darawsheh, and MKs Talab Sanea and Ahmed Tibi, met with King Abdullah II and the Jordanian Prime Minister, Adnan Badran, to discuss the Israeli-planned Gaza withdrawal and Jordan's ongoing support of the Arab population in Israel.⁵² While nurturing contacts with the Arab leadership in Israel, Jordan has kept a distance from the northern branch of the Islamic Movement in Israel, viewing it as an extension of Islamic movements within Jordan, such as the Muslim Brotherhood, which have been kept under tight control by the Jordanian government.⁵³

Following the conclusion of the 1994 peace agreement between Jordan and Israel, the Jordanian border officially opened and became a thriving conduit for travel, study and business.⁵⁴ Arab citizens constitute about 90% of passengers through the new Sheikh Hussein border pass in the Jordan valley.⁵⁵ Due to its proximity for the bulk of Palestinian Arab citizens living in northern Israel, Jordan has become - in the words of MK Ahmed Tibi -the "gate to the

⁴⁹ Interview with Jafar Farah, *supra* note 29.

⁵⁰ Hadas Manor, *Exports to Arab Countries up 15% in 2003*, Globes: Israeli Business News (online), Feb.5, 2004, at www.globes.co.il. According to the Israeli-Jordanian Chamber of Commerce, Israeli exports to Jordan grew by 55% in 2004 and total trade between Israel and Jordan increased from US\$130 million (EUR 103 million) in 2003 to US\$185 million (EUR 146 million) in 2005. Lior Greenbaum, *Exports to Jordan up 55%*, Globes: Israeli Business News (online), April 5, 2005, at www.globes.co.il.

⁵¹ The boycott under the auspices of the Arab League is not enforced by several Arab states, including Algeria, Morocco, Tunisia, several Gulf states and the Palestinian Authority. Jordan and Egypt ended their boycott with Israel pursuant to their respective peace agreements with Israel. See e.g. White House, Office of the US Trade Representative, *Press Release: National Trade Estimate Report: The Arab League*, March 30, 2005.

⁵² See e.g., Jordanian News Agency, *Jordan: PM reiterates support for Palestinians as he meets with Arab Israeli delegation*, April 25, 2005; Qatar News Agency, *Jordanians Monarch to receive Arab Knesset members*, Feb 26, 2005; Jordanian News Agency, *Badran Receives Arab Israelis delegation of Islamic Movement*, April 18, 2005.

⁵³ See Interview with Jafar Farah, *supra* note 29. See generally, NACHMAN TAL, *RADICAL ISLAM IN EGYPT AND JORDAN* (2005).

⁵⁴ Notably, in contrast to the relative ease with which citizens of Israel may enter Jordan, Israel has been stringent in its approval of applicants to visit Israel, especially those with Palestinian background. Interview with Jafar Farah, *supra* note 29.

⁵⁵ *Id.*

outside world and to greater and closer contacts with the Arab world.”⁵⁶

Jordan became the point for Palestinian Arab citizens of Israel to meet relatives in Jordan, as well as relatives from other Arab states who came to Jordan. Consequently, Jordan’s tourism and economy greatly benefited from the opening of the border with Israel, primarily due to the Palestinian Arab citizens of Israel, who now constitutes a target market for events and tourist activities in Jordan.⁵⁷

Close relations between Palestinians in Israel and Jordan have also led to increased number of cross-border marriages. However, as with other marriages between Israeli citizens and Arab nationals, such couples face discrimination in the naturalization process, and are often completely denied from living together in Israel.⁵⁸

In a development of the Jordanian-Israeli peace agreements, Jordanian universities opened their gates to Arab citizens of Israel, with special admission and programs, including several “Kingdom Scholarships” for students nominated by Arab political parties in Israel. By some estimates, about 4,000 Arab citizens of Israel study in Jordanian universities.⁵⁹ Though received with controversy and protest in Jordan and some other Arab countries, in May 2004, Al-Ahliyya Amman University, the first private university in Jordan, has reportedly begun negotiations with the Israeli Ministry of Education to open a satellite campus in Israel.⁶⁰

However, some critics observe that the King’s scholarships to Palestinian Arab citizens of Israel are meant to appease criticisms by the Palestinian community in Israel of the Jordanian regime and its attitude toward Israel.⁶¹ For example, with the outbreak of the 2000 *al-Aqsa intifada*, Palestinians in Jordan and in Israel called upon the Jordanian King and government to cease normalization with Israel, expel Israeli diplomats and reject relations with Israel as long as it continues to occupy and abuse the residents of the West Bank and Gaza.⁶² Jordan consequently did not renew the term of its diplomat in Israel and only reinstated that post in March 2005,⁶³ with renewed optimism after the 2005 Sharm al-Sheikh “ceasefire” agreement between Israel and the PA, and Israel’s move to withdraw from Gaza, which Jordan would like to see done as part of the Middle East Roadmap.⁶⁴ Nonetheless, Jordan has opted for quiet, behind-the-scenes diplomacy, rather than vocal condemnations of Israeli policies in the West Bank/ Gaza or toward the Palestinian community in Israel.

⁵⁶ See e.g. comments of MK Ahmed Tibi quoted during his visit to Jordan by the Jordan News Agency, *Dr. Tibi: Jordan is a Gate for One Million Arab Israelis*, Feb. 28, 2005. In January 2005 alone, 18,500 Israelis crossed into Jordan, many continuing to Gulf states. Zeev Klein, *193,000 Israelis traveled abroad in January*, Globes: Israeli Business News (online), Feb. 20, 2005, at www.globes.co.il.

⁵⁷ Interview with Jafar Farah, *supra* note 29.

⁵⁸ For more detail, see Part IV, Chapter 2: Legal Status, of this report.

⁵⁹ Interview with Jafar Farah, *supra* note 29.

⁶⁰ Al-Bawaba Report, *Private Jordanian University wants to open extension in Israel*, May 31, 2004 (LexisNexis News Library)

⁶¹ Interview with Jafar Farah, *supra* note 29.

⁶² International Crisis Group, *The Challenge of Political Reform: Jordanian Democratization and Regional Instability* (Oct. 8, 2003), at 8, available at

http://www.crisisgroup.org/library/documents/middle_east__north_africa/jordan_political__reform08_10_03.pdf

⁶³ See Joshua Brilliant, *Egypt, Jordan return ambassadors to Israel*, UPI, March 21, 2005.

⁶⁴ Jordanian News Agency, *Jordan: PM reiterates support for Palestinians as he meets with Arab Israeli delegation*, April 25, 2005.

iii) Lebanon and Palestinian Arab citizens of Israel

Three main phases characterize the relations between Lebanon and the Palestinians in Israel: 1) 1948 refugees in Lebanon, 2) the Lebanese civil war, and 3) Israeli military operations in Lebanon.

In 1948, about 100,000 Palestinian refugees fled or were expelled to Lebanon.⁶⁵ Small groups returned to their homes under international pressure and others who were present back in Israel by 1952 were granted Israeli citizenship.⁶⁶ Those caught sneaking across the border to return to their home villages were sent back to Lebanon. The refugees who returned to Israel during this period told of mistreatment by the Lebanese and its official policy of encouraging them to leave, especially Muslim Palestinians who would undermine the Lebanese dream of a Christian state.⁶⁷

Friction between the ruling Maronite Christians and other groups in Lebanon culminated in a bloody civil war, which lasted on and off, starting in 1958, followed by a second eruption in 1975 until signing of the 1989 Charter of National Reconciliation, or Taif Accord.⁶⁸ Both Israel and Lebanon capitalized on the civil war to fan sympathies and hostilities along religious and ethnic lines within the Palestinian community in Israel. Israel backed the Lebanese Phalanges, a group of Fundamental Christians, whom it would later draw upon in its war against PLO strongholds in Lebanon. The presence of the PLO in Lebanon, since its expulsion from Jordan during the 1970 events of Black September, added to Lebanon's political instability and overall vulnerability.⁶⁹

Starting with military incursions against PLO bases in 1978 Israel invaded Lebanon in 1982 and remained in its so-called "security zone" in Southern Lebanon until withdrawing in 2000.⁷⁰ During the chaos of the Israeli-Lebanese war, Palestinians in Israel and those in Lebanon had new, yet limited opportunities to learn about each other's realities. The hundreds of Palestinian Arabs from Israel who worked in construction in the "security zone," and Palestinian children from refugee camps in Lebanon who were brought to hospitals in Israel for medical care, could both meet with relatives and dispel myths about Palestinian Arab citizens of Israel as traitors who abandoned their identity and became Jewish.⁷¹ The wounded refugee children brought to Israeli hospitals by the IDF during the Lebanon war were reunited for the first time with relatives in Israel and were taken to see the remains of the home villages of their families.⁷²

Following the Israeli withdrawal from Lebanon in 2000, it is estimated that about 5,000

⁶⁵ Zureik, *supra* note 8, at 33.

⁶⁶ Nationality Law of 1952, 6 L.S.I. 50, (1951-1952); Law of Entry of 1952, 6 L.S.I. 159, (1951-1952).

⁶⁷ Interview with Jafar Farah, *supra* note 6. Lebanon only granted nationality to 50,000 Christian Palestinians in the 1950s and a small number of affluent Sunnis, while the majority of Palestinian refugees remain stateless. Zureik, *supra* note 8, at 33.

⁶⁸ United Nations, Core document forming the report of the state party: Lebanon, HRI/CORE/1/Add.27/Rev.1, (Oct. 3, 1996) *available at* [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/8222422fd8b0fe858025644b003a2f56?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/8222422fd8b0fe858025644b003a2f56?Opendocument).

⁶⁹ ROSEMARY SAYIGH, TOO MANY ENEMIES: THE PALESTINIAN EXPERIENCE IN LEBANON 29-30 (1994).

⁷⁰ The Economic Global Agenda, A chronology of the Middle East conflict, Feb. 9, 2005, *available at* http://www.economist.com/agenda/PrinterFriendly.cfm?Story_ID=1922472.

⁷¹ Interview with Jafar Farah, *supra* note 6.

⁷² *Id.*

Lebanese, mostly former soldiers in the Israeli-backed Southern Lebanon army and their families, were resettled in Israel.⁷³ Given lingering resentment toward these soldiers, the Committee of Arab Mayors declared its strong opposition for such resettlement in Arab localities in Israel.⁷⁴

Moreover, the Israel-Lebanese war and the shock over the massacre of Palestinians in the Sabra and Shatila refugee camps greatly shaped and contributed to a stronger Palestinian identity among the Arab community in Israel.⁷⁵

Given the subsequent failure of Arab regimes, the PLO's success was seen as a heroic story and anointed the PLO as the true leader of the Palestinians. Still, the trauma of the Sabra and Shatila massacre signified a tragic, historic milestone in Palestinian national history uniting Palestinian citizens of Israel in marches and vigils of solidarity, matched only by the 1976 land day events.⁷⁶

As the PLO is considered as the resistance group that symbolizes the Palestinian struggle for self-determination, the Hizballah ("party of god"), created in 1982 as a reaction to the Israeli invasion, was seen as leading resistance against Israeli occupation in Lebanon.

The first official visit by Arab leaders from Israel to Lebanon was for the February 2005 funeral of the assassinated former Lebanese Prime Minister, Rafik Al-Hariri,⁷⁷ known for his official policy of pressuring Palestinian refugees to leave Lebanon.⁷⁸ Palestinian members of the Israeli Parliament, Ahmed Tibi and Azmi Bishara, came to pay their respects at his funeral.

Today, about 394,532 Palestinians refugees are registered with UNRWA in Lebanon,⁷⁹ most with close relatives in northern Israel. Given their poor conditions and mistreatment in Lebanon, the Palestinian refugees and the Palestinians of northern Israel are keenly interested in a prompt and just resolution of the Palestinian refugee issue, in particular the right of return.⁸⁰

iv) Syria and Palestinian Arab citizens of Israel

For the past four decades, Syrian politics have been dominated by the ruling Arab Socialist Renaissance (Ba'th) party's vision of a Greater Syria, which would encompass territories of Lebanon, Jordan, parts of Iraq and Turkey, and Mandatory Palestine.⁸¹

⁷³ *Id.*

⁷⁴ Reuven Paz, *The Israeli Arabs and Lebanon: A New Phase?* The Washington Institute for Near East Policy, Peace Watch #265, June 19, 2000.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Interview with Jafar Farah, *supra* note 6; *Hariri buried amid chaotic scenes*, Feb, 17, 2005 CNN, available at <http://www.cnn.com/2005/WORLD/meast/02/16/beirut.explosion/>

⁷⁸ Zureik, *supra* note 8, at 41-42.

⁷⁹ UNRWA, *Lebanon refugee Camp profiles*, Dec. 31, 2003, available at <http://www.un.org/unrwa/refugees/lebanon.html>

⁸⁰ Paz, *supra* note 74.

⁸¹ Farid N. Ghadry, *The Future of Syria: an End to the Baath regime*, Reform Party of Syria, June 4, 2003 at www.reformsyria.com.

Prior to the 1991 Madrid peace conference, the Ba'th leadership rejected formal negotiations with Israel, which annexed the Syrian Golan Heights in 1967. Syria has also openly supported the armed struggle of Hamas and Islamic Jihad groups in Occupied Palestinian Territories and the Hizbollah in Lebanon.⁸² The Syrian regime has traditionally rejected relations with Palestinian Arab citizens of Israel, and in several cases attempted to recruit Palestinian citizens to join Syrian military operations or covert armed actions against Israel. Since the vast majority of Palestinian citizens have opted not to take active part in military confrontation, they have been largely excluded from Syrian relations and vision.⁸³

Given the Syrian-led isolation of Egypt since signing the 1978 Camp David peace treaty with Israel, Egypt has been instrumental in connecting Syria with the Arab leadership in Israel, primarily via the Arab Democratic Party.⁸⁴ Initial - often clandestine - contacts were established with Arab members of the Labor and Arab parties, such as Abdul Wahab Darawshe, a former Labor MK who later formed the Arab Democratic Party and Saleh Tariff of Labor.⁸⁵

On the heels of the Gulf war, which substantially impacted the regional balance of power, Syria joined the 1991 Madrid conference, which launched, the now frozen, bilateral peace talks between Israel and Syria. As part of such efforts, Syria started to build relations with Palestinian citizens of Israel.⁸⁶ In the early 1990s, Syria began to actively invite political cooperation with Arab leaders in Israel, encouraging the visits of intellectuals and political leaders to Syria. In 1994, a large delegation of Arabs from Israel, headed by MK Wahab Darawshe, visited Syrian President Hafiz al-Asad upon the death of his eldest son.⁸⁷ At the initiative of the Ba'th party, on August 12, 1997 President Asad formally invited a delegation of prominent Palestinian Arab citizens of Israel to visit Syria as a gesture of goodwill and an attempt to build cooperation with the Israeli political system.⁸⁸

Regular visits by small delegations and individuals, in particular Knesset member Azmi Bishara of the National Democratic Assembly (Balad) party, have led to close relations with senior Syrian officials.⁸⁹

In contrast to tightening individual relations between Syria and the Arab leadership in Israel, the last formal Syrian-Israeli talks took place in March 2000, and following the eruption of the *al-Aqsa intifada*, Israel has called off all negotiations with Syria.⁹⁰ In 2001 the Israeli Knesset stripped the parliamentary immunity from prosecution of MK Azmi Bishara to allow for the filing of charges against him for arranging illegal visits to Syria by Arab citizens of Israel and

⁸² *Id.*

⁸³ Interview with Jafar Farah, *supra* note 6.

⁸⁴ *Id.*

⁸⁵ Informed Sources: The Other Secret Middle East Peace Talks, Oct 11, 1993 Time, *available at* <http://www.time.com/time/archive/preview/0,10987,979368,00.html>.

⁸⁶ Interview with Jafar Farah, *supra* note 6.

⁸⁷ Paz, *supra* note 74.

⁸⁸ ITAMAR RABINOVICH, THE BRINK OF PEACE: THE ISRAELI-SYRIAN NEGOTIATIONS 264 (1998)

⁸⁹ *Id.*; *See also.* Bashar Assad meets with Israeli Arab MK, April 25, 2000 *at*

http://www.meib.org/articles/0006_sb.htm#sb2.

⁹⁰ U.S. Department of State, Background Notes; Syria (Aug, 2004), *available at*

<http://www.state.gov/r/pa/ei/bgn/3580.htm>.

for supporting a terrorist organization, namely Hizballah.⁹¹ Through his contacts with Syrian officials between 2000-2001 Bishara has reportedly organized trips to Syria, via Jordan, for about 800 Arabs living in Israel to reunite them with relatives who fled or were expelled to Syria in 1948.⁹²

Controversy over Bishara broke out after he expressed support for the Palestinians' right to resist occupation while speaking in Syria at a first anniversary memorial service for the late Syrian president, Hafez al-Assad, which was also attended by leaders of Hizballah and Hamas.⁹³ In a move to further restrict contacts with Syria by Bishara and other Arab citizens of Israel, as well as progressive Jewish Israeli officials, the Knesset voted to prohibit visits to "enemy states."⁹⁴

According to the 1948 Emergency Regulations (Foreign Travel) Law invoked in Bishara's case, Israeli citizens who wish to visit "enemy states" must obtain permission from the Ministry of Interior.⁹⁵ While the prosecutor claimed Bishara flaunted his responsibility to request a permit, his defense points out that the law exempts individuals who carry Israeli diplomatic or service passports, such as members of parliament, from being subject to these travel restrictions.⁹⁶

To the Arab community in Israel and beyond, the suits against Bishara and his two assistants represent a politically -motivated attempt to "intimidate, silence, and de-legitimize the democratic voice of the Palestinian citizens of Israel."⁹⁷ While the court dismissed the charges related to Bishara's visits to Syria on April 1, 2003, the charge of political speech in support of a terrorist group remains pending.⁹⁸

While Israel sought to restrict relations of Palestinian Arab parties, in particular Balad, with Syria, Syria facilitated Balad's access to the Arab world media. For example, the Syria-affiliated al-Mustakbal ("Future," in Arabic) and Syrian state media outlets featured interviews with Bishara including his bid for re-election and general coverage of the 2003 parliamentary elections in Israel.⁹⁹ For the first time, Syria seemed to be politically open to an Arab party in Israel. Balad's pro-palestinian Arab view meshed well with Syria's similar aims for the region, often to the exclusion of other Arab parties in Israel, including the Islamic parties and Hadash

⁹¹ Adalah, *The State of Israel v. MK Dr. Azmi Bishara*, available at <http://www.adalah.org/eng/bishara.php> (last visited May 5, 2005).

⁹² The International Committee for the Defense of Azmi Bishara, *Legal proceedings against Azmi Bishara, Trips to Syria Indictment* available at <http://www.azmibishara.info> (Last visited May 5, 2005)

⁹³ Daniel Sobelman, Yossi Verter and Jalal Bana, *Bishara urges Arabs to resist Israel*, Ha'aretz, June 11, 2001, Ha'aretz, available at <http://www.haaretzdaily.com/hasen/pages/ShArt.jhtml?itemNo=91737&contrassID=3&subContrassID=0&sbSubContrassID=0>.

⁹⁴ *Id.*

⁹⁵ The states in reference are: "Lebanon, Syria, Egypt, Trans-Jordan, Saudi Arabia, Iraq and Yemen or any part of Eretz Israel outside Israel." Prevention of Infiltration (Offences and Jurisdiction) (Amendment) Law, 5709-1948, art. 2A

⁹⁶ See Adalah, *The State of Israel v. MK Dr. Azmi Bishara*, available at <http://www.adalah.org/eng/bishara.php> citing Emergency Regulations (Foreign Travel) Law, 5709-1948, art. 7(c).

⁹⁷ The International Committee for the Defense of Azmi Bishara, *Legal proceedings against Azmi Bishara*, available at <http://www.azmibishara.info> (Last visited May 5, 2005)

⁹⁸ Adalah, *supra* note 96.

⁹⁹ Interview with Jafar Farah, *supra* note 6.

(Democratic Front for Peace and Equality), which includes the Community Party.¹⁰⁰

Druze and Syria

The Druze, about 10% of the Palestinian Arab community in Israel, preserved close relations with relatives in Syria. Of about one million Druze in the Middle East, half live in Syria, 40% in Lebanon, 7% in Israel and 2% in Jordan.¹⁰¹ As the Druze religion was primarily disseminated in Syria (and Egypt) since the 11th century,¹⁰² Druze living in the Golan Heights, Syrian lands occupied by Israel since 1967, maintain close familial, social and religious ties with their brethren on the Syrian side. The close to 18,000 Druze living in the Golan Heights pledge their political allegiance to the Syrian government and many refuse to receive Israeli identification papers. By special arrangement, despite prohibition on travel to Syria, Druze religious leaders are permitted by Israel to visit religious sites in Syria.¹⁰³ Upon request to Israel by the Druze community and following lengthy bureaucratic hurdles, for the first time since 1967, Druze in the Golan Heights were permitted to export their produce, about 15,000 tons of apples to Syria, this year.¹⁰⁴

¹⁰⁰ *Id.*

¹⁰¹ Institute of Druze Studies (IDS), *The Druzes One Thousand Years of Tradition and Reform* (1998) <http://www.druzestudies.org/druzes.html>; Israeli Ministry of Foreign Affairs, *Minority Communities* (February 1, 2004) at <http://www.mfa.gov.il/MFA/Facts+About+Israel/People/SOCIETY-%20Minority%20Communities>.

¹⁰² *Id.* at IDS.

¹⁰³ See e.g., *Israeli Druze set to visit Syria*, BBC, Aug. 30, 2004, at http://news.bbc.co.uk/2/hi/middle_east/3612002.stm.

¹⁰⁴ Daniel Kennemer, *Israel approves sale of Golan apples in Syria*, Jerusalem Post, Dec. 20, 2004, at 14.

VI. RECOMMENDATIONS FOR A PARTICIPATORY RESOLUTION OF THE CONFLICT

Based on the findings of the report, the Mossawa Center summarizes its major recommendations to all the below mentioned parties influencing the status of the Palestinian Arab Citizens in Israel; in order to ensure respect for human rights and to empower and enable the participation of this community to contribute to peace and justice in the region.

I. RECOMMENDATIONS TO ISRAEL

The government of the State of Israel:

1. Must recognize the national Palestinian Arab minority, as a national minority composed of citizens with unique national, social, economic and cultural needs
2. Must recognize the community's representative institutions, especially the High Follow-up Committee for Arab Citizens, and allow their development. Further recognize that the Palestinian Arab citizens of Israel are historically, nationally and ethnically related to the other Arab nations in the region whilst they are also citizens of the state of Israel.
3. Must encourage representative inclusion / participation of the Arab minority in the decision making processes concerning the character of the state and its political, social and economic frameworks, especially in the employment and organizational spheres; incorporate the representative bodies of the Palestinian Arab community in all such matters.
4. Must oppose and work actively to eradicate racism in all its forms, including in the public and institutional realms, which constitutes a daily threat in the lives of Palestinian Arab citizens.
5. Must stop the current policy of foot-dragging and reluctance to accept responsibility for its security forces and Jewish citizens in the killing of Palestinian Arab citizens, for being Arab, and demand immediate prosecution of the perpetrators, as recommended in the Or Commission report.
6. Must establish long term development plans with allocated funds to improve the status of Arab community, according to the community's priorities and needs, in the economic, social and cultural fields. Specific actions should include fighting

poverty, reducing the rate of infant mortality, building classrooms, operating vocational training and facilitating employment for Palestinian Arab women, consolidating zoning plans and building new neighborhoods.

7. Must provide *de jure* and *de facto* recognition of the “unrecognized” villages in the Naqab (Negev), and include them in master /development zoning plans and supply infrastructure to the newly recognized villages in the Galilee and the Naqab.
8. Must give high priority to the issue of internal refugees. In this regard, Israel must agree to stop creating new internal refugees, mainly in the Naqab, where thousands of Bedouin Arab citizens continue to be displaced and uprooted from their lands and homes.
9. Must not feed inter-religious conflicts but rather support inter-community dialogue and strengthen democratic values.
10. Must address the lower status of women in the Arab community, in accordance with its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and relevant CEDAW committee concluding comments.
11. Must pass basic legislation, a legal and constitutional infrastructure, which recognizes and defends Arab minority rights to conduct itself with dignity in the public and private systems, in accordance with international values of democracy and human rights. This legislative, legal and constitutional infrastructure, in essence should include the following provisions:
 - Bilingualism: Guarantees for the status of the Arabic language as an official language equal to the Hebrew language, by ensuring bilingual mechanisms in the various public arenas.
 - Special appropriate expression and preservation of the Palestinian Arab culture in the public space in Israel including access to the public media.
 - Self management of educational, cultural and religious issues including in universities, theatre, cinema, youth movements and media production.
 - Fair representation in public institutions, which shape national priorities and policies.

- Fair representation in the symbolic mechanisms of the state. The state symbols, the flag and the national anthem constitute public resources, that should be equitably shared by the two national groups that form Israeli society.
 - Special allocation of budgetary resources, taking into consideration the inferior socio-economic status of the Palestinian Arab community when compared to the Jewish community.
 - Acknowledgement of historical rights: As part of moving toward just historic reconciliation, the state must answer to the official policy of severe deprivation and repressive discrimination against the Arab community since the establishment of the state in all spheres.
 - Recognition of the rights of the Arab community to their lands including the lands that were confiscated, the Bedouin lands in the Naqab and fair public land allocation by government institutions.
12. Must guarantee, protect and fulfill the rights of the Palestinian Arab minority, as required by its ratification of the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and relevant concluding comments of their respective committees.

The Jewish Civil Society:

1. Should demand from public and governmental institutions to enshrine in law and in any other framework that forms a basis for the definition and character of the state, guarantees for the rights of Arab citizens, as defined by the Arab community.
2. Should demand from the responsible authorities to work to strengthen international values dealing with human and civil rights and the acceptance of the other, in the workings of educational and public systems. To that end, demand exposure to positions and information that represent the various societies and publics in Israel, including the Arab society.

3. Should work to force responsible authorities to abolish social norms of intolerance against others in general, and against the Arab minority, in particular.
4. Should respect the right of the Arabic community to develop its capacities and create their own organizations whilst realizing that this process is not a hindrance to cooperation between the two civil societies.

II. RECOMMENDATIONS TO THE PALESTINIAN ARAB COMMUNITY

The Palestinian Arab Community in Israel:

1. Should strengthen and continue the internal and collective organizing processes that aim to ensure collective and individual rights and awareness of the community as Arab citizens of the state, indigenous inhabitants of the land and as part of the Palestinian Arab people worldwide.
2. Should build capacities and strategies to contribute to the creation of a peace atmosphere using their unique status as an Arab community.
3. Should develop community instruments to increase dialogue and actions that will prevent inter-community conflicts.
4. Should develop community programs to improve the overall status of women and to specifically focus on raising the low socio-economic status and political participation of Palestinian women in Israel.
2. Should act to raise awareness of the national Palestinian Arab identity, and of democratic, human and civil values in the Arabic community in general, as the keys to fighting institutionalized discrimination, and challenging ethnic divisions and internal social problems, such as the status of Arab woman and the rights of children.
3. Should strengthen and develop Arab community bodies that aim to change the institutional policy concerning the status of the Arabic community and its needs, including creating a mechanism to coordinate between the various bodies.
4. Should develop and strengthen contacts and activities with countries and organizations in the international arena, including Jewish communities to underline the importance of international recognition of the Arab community's needs as a national minority, to advance its status and develop democratic and just treatment for all populations in Israel.
5. Should strengthen the cooperation between local organizations, including those in the Jewish community, in order to promote decisions with political, social and economic influence on the general community, and those influencing the Arab community specifically, including the issue of just peace also for the Palestinian community under the Palestinian Authority.

III. RECOMMENDATIONS TO THE EUROPEAN INSTITUTES

The European Institutes (European Commission, Parliament, and Council):

1. Should re-define its position, including at the declarative level, concerning the promotion and guarantee of human and civil rights in the Middle East, to include the Arabic community in Israel, as a community whose rights – as defined by the community - must be protected, in all relations between the European Institutes and Israel.
2. Should recognize the Arab community's status and role in achieving political stability in the region. To this end, representative bodies of the Arab public in Israel should be involved in the processes and initiatives of the European Institutes as they relate to the region in general, and to Israel in particular.
3. Should establish a parliamentary committee of the European Parliament to work on advancing the rights of the Arab minority in Israel, via report preparations to be submitted to the European Parliament and discussed within the framework of relations with Israel.
4. Should raise the current EU-Israel Human Rights Working Group to the level of an official Committee dealing with Human Rights
5. Should include provisions on the protection of the rights of the Arab community in Israel in all bilateral agreements between Israel and the European Union.
6. Should enforce existing provisions that obligate Israel to respect human rights of those under its jurisdiction, in particular Article 2 of the Euro- Mediterranean Israel – EU Association Agreement, which requires Israel to comply with its obligations vis-à-vis internal policies and legislation and other international agreements ratified by Israel.
7. Should address the situation of the Bedouins in the Naqab (Negev) in light of the “Development Plan,” which is forcing some villages to abandon their lands to provide for the relocation of evacuated settlers from Gaza.
8. Should include the Arab minority of Israel as an active partner in political dialogue and negotiations related to international agreements such as the EU- Israel Action Plan.
9. Should establish a public review system, to assess the implementation of the EU's agreements with Israel.

10. Should recognize the Arab minority in Israel as a disadvantaged community, which would allow for development aid to reach severely under-developed areas of the Arab community, such as the Bedouin residents of the unrecognised villages, and women.
11. Should recognize the unique situation of the Arab minority and encourage the State of Israel to acknowledge and provide for their collective rights and needs as community.
12. Should ensure that the Arab minority is included in the monitoring and reporting subcommittees related to the implementation of the EU- Israel Action Plan priorities as outlined under section 1 of the Plan.
13. Should ensure the inclusion and affirmation action for the Arab community in all bilateral frameworks such as the scientific, media, human rights, trade, environment and culture agreements.
14. Should call for the annulment of The Nationality and Entry into Israel Law (Citizenship Law), as being a violation of the human rights articles in both the EU/Israel Action Plan and Association Agreement.

IV. RECOMMENDATIONS TO THE UNITED STATES GOVERNMENT

The US government:

1. Should implement US government declarations against all forms of occupation worldwide, by immediately and objectively acting against the continued occupation of the Palestinian people on their land, and recognizing and guaranteed the establishment of a Palestinian State.
2. Should limit its involvement outside its jurisdictional borders, including in the Middle East, to actions to guarantee the implementation of UN conventions on the protection of human rights carried out under UN supervision.
3. Should re-define its position, including at the declarative level, concerning the promotion and protection of human and civil rights in the Middle East, to include the Arabic community in Israel, as a community whose rights – as defined by the community - must be protected, in all relations with Israel.
4. Should recognize the Arab community's status and role in achieving political stability in the region. To this end, representative bodies of the Arab public in Israel should be involved in the processes and initiatives of the US government as they relate to the region in general, and to Israel in particular.