



Israel: A Democracy for Jews Only – Abuses Against its Palestinian-Arab Citizens



Who are the Palestinian-Arab citizens of Israel?

History has nearly forgotten the 156,000 Palestinian-Arabs who in 1948 remained in what became Israel, and were granted Israeli citizenship. The long history of the Arab citizens of Israel was shaped by the events leading up to the 1948 *Nakba*, or catastrophe, the result of which shattered and forcefully separated a community of approximately 950,000 people. The vast majority of these people were either forced out of their homeland or fled under the duress of war to neighboring Arab countries whereby they and their descendants have today become the world's largest and oldest refugee population.

The war of 1948 decimated Palestinian society. It is referred to as the *Nakba* because between 1948 and 1951:

- More than 800,000 Palestinians were expelled or fled their homes and were forced to become refugees in neighboring Arab states
- Nearly 85% of the 550 Palestinian towns and villages were depopulated by Israeli forces and in many cases homes were destroyed and civilians massacred en masse
- Approximately 30% of the Palestinians who remained in Israel were expelled from their homes and made internally displaced peoples or refugees, meaning that they were forced to resettle elsewhere in the country after their villages and towns were expropriated by the newly amalgamated state¹

Immediately following the war, the 156,000 Palestinians who remained were granted Israeli citizenship and exclusively placed under a Military Administration. Military rule restricted their human, national, civil and economic rights, and the damage to Arabs socio-economic development was severe. This was the main tool used to forcefully transfer many Arabs resources to the control of the Jewish population, including systematic land confiscation that continued well into the 1970's. In the first decade of military rule, Israel expropriated about 60% of privately owned land from Arabs and almost all of the publicly owned land belonging to Arab towns prior to 1948.² These lands were transferred for the exclusive use of Jewish citizens and new immigrants and over 600 Jewish settlements were built over former Arab towns.³ While Military Rule was lifted in 1966, Arab citizens of Israel continued to be subjected to state policies that restricted and marginalized them as a community.

Is Israel a State of All its Citizens?

The State of Israel was founded as a Jewish democratic state, and official state discourse continues to assert the *equality* of the Arabs in Israel with that of its Jewish citizens. However, the self-identification of Israel as a *Jewish state* indicates that while the Arabs in Israel have been granted *civic* rights as citizens, they are in fact not full citizens of the state as they are denied *republican* citizenship, and cannot take full 'ownership of the country'. (Note: "Republican citizenship" is a concept of citizenship where the individual feels encouraged and is enabled to contribute to, and support the norms of the national polity.) In practice, Arabs are afforded a smaller share of the country's resources in every aspect of social, political, economic, academic

and cultural life.⁴ In addition, the Jewish majority largely views the Arabs as *foreigners* or a fifth column and has yet to recognize the Arab in Israel as a national group or national minority.

The Orr Commission

In October 2000 (during the *Second Intifada*) the resentment of Palestinian-Arab citizens of Israel towards the state culminated in street demonstrations protesting both the illegal occupation of the Palestinian territories and the institutional discrimination of Israel's Arab citizenry. By the end of 10 days of violence, 13 Palestinian-Arab citizens were killed, and hundreds were injured by Israeli police or Israeli-Jews.⁵ Over the course of the next few months, human rights organizations reported trends of arbitrary arrest and detention, as well as inhumane treatment of Arab citizens in custody. Following these events, the Israeli government launched the Orr Commission to determine the roots of Arab discontent in Israel. The three-year investigation reported that to “remove the stain of discrimination” Israel must take steps to provide a more equitable system, “specifically in the areas of land and housing allocation, education, state ministry budgeting, and employment.”⁶ The Israeli government subsequently agreed to adopt these recommendations, but has been slow to take concrete steps to do so.⁷

Israeli Legal Discrimination against its Palestinian-Arab Citizens

The Palestinian-Arab citizens of Israel face unique challenges. Discrimination and racism pervade every level of Israeli society, from individual perspectives to legal and systemic policy choices which amount to institutionalized racism. However it is the structural discrimination within the Israeli legal system that provides the foundation for institutionalized bias. This precludes the Palestinians in Israel from enjoying their full civic, political, economic, social and cultural rights. In fact, a recent report submitted by The Adalah Legal Center for Arab Minority Rights in Israel to the UN Committee on the Elimination of Racial Discrimination found 17 laws of which are discriminatory on their face, in that they either relate only to the rights of Jews in Israel or abridge the rights of Arab citizens of the State and 3 laws which use neutral language and general terminology but have a discriminatory effect on Arab citizens.⁸

Constitutional Equality

There is no provision in Israeli law for the concept of constitutional equality. It is absent from *The Basic Law: Human Dignity and Freedom*, which since 1992 has served as Israel's constitutional Bill of Rights.⁹ While laws exist which protect the equal rights of disadvantaged groups such as women and the disabled, no general statute relates to the right to equality for all citizens. Moreover, there is no statute which specifically protects equal rights for the major Arab minority in Israel.

Military Service

The Israeli Government uses military service as a requirement for various public benefits. Given that the vast majority of Palestinian-Arabs are not allowed to serve in the Israeli military, this requirement camouflages as a racist policy. This limits the ability of many Palestinian-Arabs to receive “housing loans preference in public employment, and financial aid for university study.”¹⁰ However, Yeshiva students who are granted exemptions from military service when requested, nonetheless receive some of these benefits due to the “traditional place of Torah study in Jewish heritage.”¹¹

Citizens without Citizenship

The Israeli *Law of Return* grants automatic citizenship and financial benefits (*oleh* status) to any Jew looking to immigrate to Israel, to her/his spouse, children, grandchildren, and their respective spouses.¹² The right to acquire Israeli nationality automatically and without preconditions, on the basis of the *Right to Return*, was

not merely granted to Jewish immigrants after the establishment of Israel, but was given retroactively to Jews who had immigrated to Palestine or had been born there before the creation of the State. However, Palestinian-Arab refugees who were expelled from their land and homes in 1948 are not granted the *Right of Return* and not even entitled to residency or citizenship status. Indeed, even spouses of Arab citizens of Israel can only gain citizenship of residency status through complicated and exhausting legal procedures.

Like other states, to be born in Israel is one of the ways of acquiring Israeli nationality, provided that one of the parents is an Israeli citizen.¹³ Therefore, an Arab born in Israel who is not included under *Nationality Law* and not granted the *Right to Return* and whose parents had not acquired Israeli nationality through residence in Israel (i.e. belonging to an “unrecognized village” or denied status as an internally displaced person) would also not get Israeli citizenship on the basis of being born in Israel. Yet, the Jewish child automatically acquires Israeli nationality according to the *Law of Return* and is granted this nationality without other conditions.¹⁴

Education

The Israeli education system is based on the *State Education Law of 1953*. This Law established a system of schools designed to meet the explicit demands of the Jewish community. The objectives the Israeli education system as explicitly stated in Article 2 of this Law are to exclusively advance Jewish culture and Zionist ideology.¹⁵

Discriminatory Curriculum

The Minister of Education and Culture is authorized to set education curricula for each state institution and the Arab schools are not outside of the boundaries of Article 2 of this law. As no autonomous educational system has been established for the Arab community, Palestinian students are subjected to an educational curriculum which has been developed by and for the Jewish population: e.g. Arab students are expected to spend more time studying the Torah than their own religious texts; Zionist literature and poetry are included in the standard curriculum, but not Palestinian classics; matriculation exams include questions on Judaism, but not the Muslim, Christian, or Druze faiths.¹⁶ In addition, studies have found that Israeli textbooks contain persistent negative and racist references to Arabs and Palestinians.¹⁷

The Ministry of Education does not deny that the reason for such direct discrimination in the curriculum is fear that Arab history, culture, elements and symbols will “rouse national feelings among the Arab citizens.”¹⁸ In fact, the renowned works of Palestinian poet and writer Mahmoud Darwish can be taught in the Israeli-Jewish curriculum, but are vehemently excluded from the Arab education system due to such *fears*, thus denying the needs of this community as a minority with a heritage and national affiliation.

Discriminatory Funding for Education

The inferior status of Arab schools is also largely due to discriminatory budget allocations, resulting in a lack of funding and resources. While nearly 1/3 of all Jewish students have received support from government-funded enrichment programs for impoverished students, Arab students are not eligible for these programs. In fact, there is no funding for educational enrichment programs for Arab students in Israel.¹⁹ Also, government funded pre-schools do not operate in Arab towns or villages, and more than half of the tens of thousands of Arab children with special needs are denied access to appropriate classes or schools. The result of these and other societal discrepancies is that the education opportunities available to Arab students is vastly inferior to that provided to Jewish students and is reflected in the drop-out rates which, among 16-17 year olds is 40% for Arabs and 9% for Jews.²⁰

Political Participation

Election to the Israeli Knesset (Parliament) is limited by 2 laws which require political parties to accept the “existence of the State of Israel as a state of the Jewish people.”²¹ In practice, these laws dictate that a political party calling for full equality of the Palestinian-Arab community in Israel may be disqualified. In order to become a politician of the Knesset, a Palestinian politician is forced to essentially negate her/his own identity, history and entitlement to equal rights.

Unrecognized Arab Villages

Approximately 100,000 Palestinians in Israel (10% of the Palestinian population) reside in villages which have been deemed “illegal” by the State and therefore cannot be found on any map, have no local council or government representation, and receive no government services such as: health facilities, running water, connection to a sewage or electricity network, safe access to major roads, postal services, connection to telephone network, adequate education facilities, environmental upkeep and security.²² These villages are known as “unrecognized villages” and total 45 in the Naqab/Negev Valley and 9 in the Galilee. Most of these communities existed prior to the establishment of Israel and their residents continue to struggle to survive as citizens of a state that denies them their most basic rights and needs.

In 1965 the Knesset passed the *Planning and Construction Law*, a national plan for future development. Dozens of Palestinian villages were denied official recognition by this discriminatory law and therefore excluded from development planning schemes.²³ Overnight, all buildings in these “unrecognized” villages became retroactively “illegal” and “unlicensed” and therefore subject at any moment to demolition. At the same time, planning authorities were given the right to plan projects on these lands, establishing exclusively Jewish settlements on the remains of the villages.

Land Confiscation

There exists in Israel a multi-faceted framework of laws and military regulations which have granted the State the legal authority to confiscate Palestinian land and property. In addition to legal manipulation, Arab citizens of Israel are faced with a number of administrative practices to limit their use of the land, including discriminatory national planning and zoning regulations, as well as forced evictions and housing demolitions.

Absentee Property Law

In 1950 the Israeli government passed the *Absentee Property Law* which defined all those who were expelled, fled or left the country in the first few years of the war (1948-1952) as “absentees” and their property as “absentee property.”²⁴ The lands and properties of the refugees were also confiscated, transferred to an ad hoc custodian, and eventually used for the purposes of Jewish settlement. Those who remained within the State, even those who became Israeli citizens, were classified as “present-absentees” and prevented from reclaiming their lands and possessions.

Jewish National Fund Law

The *Jewish National Fund Law* of 1953 dissolves and re-organizes the JNF from a company in the UK to an Israeli company, passing on its racist policies to the State. Under the said Law, the JNF was transferred to Israel and all its assets situated in the area of Jurisdiction of the Government. Much can be said about the racist policies of the JNF, but the story of the destroyed and uprooted Arab villages of *Imvas*, *Yalu* and *Beit Nuba* for the erection of ‘Canada Park’ is an example that is indicative, not only of much of JNF activities beyond the Green Line, but also of JNF activities inside Israel-proper.

Basic Law: Israel-Lands Law and Israel-Lands Administration Law

In 1960, these two laws were formulated on behalf of Israel government deeming that the land controlled by the JNF would now be administered by a single authority, the Israel Land Administration (ILA).²⁵ However, it was agreed that “the lands controlled by the ILA shall be administered according to the principles of the JNF,” meaning that a Jew has a right to receive land controlled by the ILA, but a non-Jew does not enjoy this right “unless the apartment or plot of land is located in the special 'zone of residence' assigned to non-Jews.”²⁶ The JNF effectively controls the ILA and dominates committees set up to vet applicants to hundreds of rural communities. Given the JNF’s declared goal of “purchasing and developing land as a national resource of the Jewish people, by the Jewish people, and for the Jewish people,” it forbids the ILA from selling or leasing of the land to non-Jews.²⁷ This arrangement has allowed it to discriminate against Arab citizens on behalf of the Israeli government, denying them access in the form of leasing and cultivation to 93% of the land.²⁸

Although the Israeli Supreme Court itself has filed a petition that the policies of the JNF violate Israeli anti-discrimination laws, the Israeli Knesset approved the renewal of the JNF Law in July 2007, in its preliminary reading allowing the JNF to continue the practice of refusing to lease land to Arab citizens. Due to criticism from Arab Members of Knesset a temporary settlement was reached where the JNF was prevented from discriminating on grounds of ethnicity. However, every time land is sold to a non-Jew, the ILA will compensate it with an equivalent amount of land therefore ensuring the total amount owned by Israeli-Jews remains unchanged.²⁹ This is indeed another instance of legal manipulation by the Israeli government.

Special Status for Jewish Organizations

Under the *World Zionist Organization – Jewish Agency Law* of 1952 major Jewish and Zionist organizations are granted special status as quasi-governmental bodies. These organizations manage land, housing and service provision, almost exclusively serving the Jewish population.³⁰ As no non-Jewish organizations are granted similar status, this produces a remarkably lower quality of life for the Palestinian-Arab community.

Israel: A Democracy for Jews Only

Israel purports to be an ethnic democratic state, but these terms are self-contradictory. Section 1a of the *Basic Law: Human Dignity and Freedom* states that the purpose of the law is “to protect human dignity and liberty, in order to establish... the values of the State of Israel as a Jewish and democratic state.”³¹ However, by establishing a hierarchy placing the interests of Jewish citizens above all others, the Israeli legal system creates the basis for a pervasive system of legal and social discrimination against its Palestinian-Arab citizenry.

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¹ *The Palestinian Arab Citizens of Israel*, (2005), Ittijah – Union of Arab Community Based Organizations, Haifa, Israel.

² *Arabs in Israel*, (2006), The Regional Council for the Palestinian Bedouin of the Unrecognized Villages, Galilee, Israel, p.38.

³ *Ibid.*, p.42.

⁴ Nadim Rouhana, *Palestinian Citizens in an Ethnic Jewish State*, (1997), New Haven: Yale University Press, p.15.

⁵ Jonathan Cook, *Anthology of bigotry*, (2007), *Al Ahrām Newspaper*, <http://weekly.ahram.org.eg/2007/855/re92.htm>.

⁶ Ibid.

⁷ Among other criticisms of the lack of follow-up to the recommendations in the Orr Commission Report, Justice Orr himself was highly critical of the state's inaction. See for example: Gross, Aeyal, "Where is the democracy here?," Ha'aretz, Dec. 27, 2002.

⁸ Yoav Stern, *Adalah center issues report on Israel's treatment of Arab minority*, Ha'aretz Newspaper, December 20, 2007, <http://www.haaretz.com/hasen/spages/826530.html>.

⁹ Nur Masalha, *Is Israel the State of All Its Citizens and "Absentees"?* (1993), Galilee Center for Social Research, Haifa, Israel.

¹⁰ *The Palestinian Arab Citizens of Israel*, 2005.

¹¹ Ibid.

¹² Uri Davis, *Israel: An Apartheid State*, Zed Books, 1987, p. 61.

¹³ Israeli Nationality Law, Article 4.

¹⁴ Law of Return, Article 2(b), and Article 3

¹⁵ Shira Kamm, *The Arab Citizens of Israel – Status and Implications for The Middle East Conflict*, (2003), Mossawa Center, Haifa, Israel, p.25-33.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Cook, p. 30.

¹⁹ *The Palestinian Arab Citizens of Israel*, 2005 – Education Sheet.

²⁰ Kamm, 2003, p. 21.

²¹ Masalha, p. 26.

²² *The Palestinian Arab Citizens of Israel*, 2005 – Unrecognized Villages Sheet.

²³ Masalha, p. 18-22.

²⁴ Ibid. p.23-24.

²⁵ Ian Lustick, *The Arabs in the Jewish State*, 1985, Mifras Press, Haifa, Israel.

²⁶ *The Palestinian Arab Citizens of Israel*, 2005 – Land Confiscation.

²⁷ Ibid.

²⁸ *Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination*, Statement submitted by Habitat International Coalition and Adalah – The Legal Center for Arab Minority Rights in Israel (both in special consultative status with ECOSOC), 13 March - 21 April 2006, <http://www.adalah.org/eng/intl06/un-i6-jnf.pdf>

²⁹ Ibid.

³⁰ Masalha, p. 7-16.

³¹ *The Palestinian Arab Citizens of Israel*, 2005 - Main.