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## Political and Legal Attacks on the Palestinian-Arab Minority in Israel: Historical Progression, Current Threats and Future Actions Needed

*In the last few years, the public and political atmosphere in Israel has become extremely right-leaning. Initially, this move to the right may have appeared to be a fringe phenomenon or a development limited to the national politic sphere. However, today it is firmly implanted in the mainstream and is making deeper and deeper inroads into the legal and public spheres. While the trend is most obvious in the realm of legislation – through pending and newly passed legislation, along with successful amendments to existing laws – political successes have now been transformed into rhetoric and practice on the grassroots level. Basic principles of democracy – including the democratic process itself – are being severely eroded and can no longer be taken for granted. For example, elements of freedom of expression, a system of checks and balances in government and the independence of the judiciary have all been weakened. The Palestinian-Arab minority in Israel has been the primary target of repeated and sustained attacks and has been forced to defend its legitimacy, standing, freedom of political activity and basic citizenship rights. This paper will provide an analysis of the genesis of the change, offer some examples of actual and potential damage that recent trends pose to nearly 20% of Israel's citizens (its Palestinian-Arab indigenous minority) and Israeli society in general, and will suggest some strategies for dealing with its ramifications while preventing additional decline.*

### The Current Campaign of De-legitimization: Why Now?

It is no accident that the political space in Israel has tilted sharply to the right. Indeed, the 1990s were characterized by unprecedented moves toward both the Palestinians in the occupied territories and Palestinian-Arab citizens in Israel. Rabin's tenure as Prime Minister – from 1992, until his life was prematurely cut short in 1995 – was characterized by unparalleled openness to issues of concern for Palestinian-Arabs both within Israel and in the geo-political realm. Arab-Jewish and Arab parties (namely the al-Jabha/Hadash party<sup>2</sup> and the Arab Democratic Party<sup>3</sup>, respectively) functioned as a "blocking body" in the Knesset that blocked the possibility of the fall of the government in order to prevent the establishment of a right-wing government. This phenomenon expressed itself in negotiations with the PLO and later the Palestinian Authority and some improvement in the socio-economic status of the Palestinian-Arab community.



Residence in the Arab-Bedouin village of Al Araqueeb a few days after the entire village was demolished by the Israeli authorities. Al Araqueeb has faced the demolition bulldozer dozens of times. Photo: Emanuel Yellin.

However, these developments soon were followed by counter-forces which wiped away these achievements and also brought on a series of punishing setbacks. Generally speaking, activist elements on the right attempted to strengthen the status of Judaism (while simultaneously weakening democratic elements) by increasing the privileges granted to the Jewish majority, investing in the settlement enterprise and energetically attempting to foil any attempt to divide land

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<sup>2</sup> The al-Jabha/Hadash party, the Hebrew acronym standing for "The Democratic Front for Peace and Equality," was formed in 1977. It is a joint Arab-Jewish party affiliated with the Communist Party of Israel, which, among other things, calls for the recognition of the Palestinian Arabs in Israel as a national minority and the establishment of a Palestinian State on the 1967 borders. It's the largest political party among the Arab community.

<sup>3</sup> Founded in 1988, the Arab Democratic Party, was one of the first solely Palestinian-Arab political parties to be formed, and it is today part of the United Arab List party.

through political agreements. This process – which began with the assassination of Rabin – has continued until this day.

The changes that occurred post-Rabin have only gained steam in recent years. Arabs in Israel are viewed as a threat to the Jewish nature of the state, while Hamas, Hezbollah and a nuclear Iran provide the necessary external enemy. Both have been used to strengthen and reinforce each other; ethnic identification and pride internally was combined with fear and uncertainty to move Jewish Israelis further to the right on the political spectrum and to harness support for right-wing positions. Both the 'Peace Process' supporters and Palestinian-Arab citizens in Israel have found themselves victims of this process.

Indeed, over the past 15 years, the discourse in Israel has become much more nationalistic and ethnocentric. Netanyahu, an astute politician, made political capital with his 1996 campaign slogan "Netanyahu is good for the Jews." He was merely among the originators of a trend that continues to this day. This ethnocentric discourse has permeated the national consciousness and is considered completely acceptable. It reached an all-time level of support during the 2009 elections, which brought the Yisrael Beiteinu<sup>4</sup> ["Israel is our Home"] party to the center of political life as the third largest party in Israel.

The ruling powers in Israel have managed to create a comprehensive right-wing agenda that now dominates discourse, ideology and practice. On the level of discourse, they are attempting to re-negotiate relations with the Palestinian-Arab community. On the level of ideology, the right is working to further entrench the superior legal and social position of Jewish Israelis. On the level of practice, new policy and legislation aim to dispossess Palestinian-Arab citizens of Israel of any rights and resources which remain in their hands – individually and collectively.

## The Current Situation: Threats from All Angles

The Palestinian-Arab minority has found itself the target of attacks on a number of fronts, while the relationship between Israel's Jews and Arabs is undergoing a unilateral re-negotiation process, to the detriment of Palestinian Arabs, both as individuals and as a collective. Current challenges can be divided into the legislative sphere, incidents of racism and incitement, attacks on free speech, de-legitimization of organizations which promote human rights and social change, and damage to the principle of separation of powers in government.

### 1. Damaging Legislation<sup>5</sup>:

Proposed new laws, modifications to existing legislation and recently passed legislation coming out of the Knesset's right-wing may vary in form, damage-causing potential and target audience. However, the goal is the same – to strengthen the Jewish majority and the status of Judaism in Israel at the expense of democratic principles and of the status of the Palestinian-Arab community. Recent legislative developments include:

- A law restricting the right of Palestinian Arabs to choose their place of residence. Passage of the Acceptance to Communities Law allows certain kinds of communities to exclude candidates for residency based on a lack of 'social compatibility.' This aspect of the law is widely understood to sanction unfair discrimination against Arabs and other 'less desirable' social groups<sup>6</sup>. This law is being challenged in the Supreme Court<sup>7</sup>.
- Extension of the Amendment to the Citizenship Law that restricts residency and citizenship rights to Palestinians from the occupied Palestinian territories who are married to Israeli citizens. The Supreme Court recently upheld the legitimacy of this legislation, dealing a death blow to such families<sup>8</sup>.
- Proposed legislation that aims to subordinate the democratic character of Israel to its Jewish

<sup>4</sup> The Yisrael Beiteinu party is a nationalist, secular party that was formed by current Foreign Minister Avigdor Lieberman before the 1999 elections in order to cater, primarily, to Russian-speaking immigrants. The party takes a hard line in negotiations with the Palestinian Authority regarding a political solution to the conflict, as well as regarding the rights and status of the Palestinian-Arab minority. For instance, the party championed the slogan in the 2009 elections, "no loyalty; no citizenship" and backed both the "Loyalty Oath Law" for non-Jews and the "Nakba Law" (see below). The party is the third largest in the Knesset, after Israel's major right-wing party, Likud (led by Benjamin Netanyahu), and the center Kadima (led by Shaul Mofaz).

<sup>5</sup> See, generally: [http://www.adalah.org/upfiles/2011/New\\_Discriminatory\\_Laws.pdf](http://www.adalah.org/upfiles/2011/New_Discriminatory_Laws.pdf) and <http://www.acri.org.il/en/wp-content/uploads/2012/02/Anti-Democratic-Legislation-05Feb2012-ENG.pdf>

<sup>6</sup> <http://www.acri.org.il/en/knesset/acceptance-to-communities-law/>

<sup>7</sup> <http://www.acri.org.il/en/2012/12/03/petitions-against-acceptance-to-communities-law/>

<sup>8</sup> See, for example: <http://www.ynetnews.com/articles/0,7340,L-4175008,00.html>;  
<http://www.telegraph.co.uk/news/worldnews/middleeast/israel/9030915/Israels-cabinet-votes-to-extend-racist-citizenship-law.html>;  
<http://news.bbc.co.uk/2/hi/8552816.stm>

character, while downgrading the status of Arabic. Currently, on the legal plane, Arabic enjoys equal status to Hebrew as an official national language. Passage of this law would cancel this right, further marginalizing Arabic and Arabic speakers and exclude them from the public domain<sup>9</sup>.

## **2. Racism and Incitement**

The Palestinian-Arab public has been exposed to, and threatened by, significant incidents of racism and incitement. A number of serious events have occurred recently, including:

- Tens of rabbis and other Jewish religious leaders initiated and ran a campaign calling on Jews not to rent apartments to Arabs.
- Palestinian citizens of Israel have incurred significant property damage, including damage to religious and public institutions, through nationalistically- ideologically motivated acts of sabotage. In Tuba Al Zangaria, a mosque sustained serious property damage after having been set on fire. Many other properties have been vandalized or have been the target of anti-Arab graffiti and slurs.
- Various religious Jewish groups have launched concerted campaigns to push Arabs out of traditionally Arab neighborhoods in mixed cities such as Acre and Jaffa. They have established Jewish institutes of study ("Yeshivot") in the heart of these neighborhoods, which then serve as centers of incitement and propaganda. This trend pushes long-time residents, already suffering from severe economic distress, into even poorer and more crime- and violence-ridden areas. Such activities dramatically – and unnecessarily – increase social tensions.
- Calls for population transfer have been made by influential members of the government. Without consulting the Palestinian-Arab community and with complete disregard for their preferences or basic citizenship rights, political leaders have suggested that Israeli citizens should be forced against their will to live under the Palestinian Authority.

## **3. Threats to Freedom of Speech**

- A law was passed levying heavy financial sanctions on institutions (including schools and community centers) that commemorate the disenfranchisement of the Palestinian-Arab population during Israel's formation as a state in 1948, known as the "Nakba", or the Palestinian catastrophe. Beyond limiting the freedom of speech, this law severely impinges on the Palestinian-Arab community's right to enjoy recognition of its collective memory and historical narrative, and thus fulfill its members' individual rights to citizenship in the full meaning of the term. In early 2012, the Supreme Court upheld the law and rejected a petition challenging its constitutionality.
- The Ministry of Interior has threatened Palestinian-Arab educators who promote study of the Nakba and who advocate for social action. For example, numerous school administrators and educators have been called in for hearings. Even taking students to an event marking International Human Rights Day is off limits: Teaching staff from the village of Arara who took students to a human rights march were reprimanded by the Ministry of Education<sup>12</sup>.
- Recently, lawmakers approved legislation enabling the filing of civil lawsuits against those who advocate for boycotting Israel and its institutions, including the settlements and settlement products<sup>13</sup>.

## **4. Incitement against Human Rights**

Right-wing forces have launched a sustained campaign of incitement and de-legitimatization against human rights groups. Those primarily targeted by the campaign work to promote the rights of Palestinian-Arabs in Israel and in the occupied Palestinian territories. This campaign has included the following elements:

- Proposed legislation that would limit the ability of such organizations to accept foreign donations, thus impeding their operations<sup>14</sup>;
- Repeated attempts to establish parliamentary committees that will hold hearings to investigate the activities of human rights organizations<sup>15</sup>;

<sup>9</sup> <http://www.acri.org.il/en/knesset/basic-law-israel-the-nation-state-of-the-jewish-people/>

<sup>10</sup> <http://www.acri.org.il/en/knesset/test-post-2/>

<sup>11</sup> <http://www.acri.org.il/en/2012/01/05/high-court-ignores-chilling-effect-caused-by-the-nakba-law/>

<sup>12</sup> <http://www.haaretz.com/print-edition/news/education-ministry-blasts-israeli-arab-school-for-taking-students-to-human-rights-march-1.404479>

<sup>13</sup> <http://www.acri.org.il/en/2011/07/12/knesset-passes-boycott-law-acri-plans-to-appeal/>

<sup>14</sup> <http://www.acri.org.il/en/2011/12/01/preliminary-analysis-of-new-ngo-foreign-funding-bill/>

<sup>15</sup> <http://www.haaretz.com/news/national/knesset-votes-against-proposal-to-probe-israeli-ngos-1.374298>

- Wild and unfounded accusations have been launched against human rights groups and individual members and leaders of such groups, including accusations of treason.

### **5. Damage to Separation of Powers**

The right has repeatedly attempted to interfere in the functioning of the judicial system<sup>16</sup>. For example, the Knesset made an attempt to influence the selection of judges through legislative activities. A campaign of incitement has been waged against the Office of the Public Defender and judges believed to have a liberal orientation. Systematic attempts have been made to cancel judicial oversight or to override Supreme Court rulings believed to compromise the interests of the right. Most recently, up for consideration is a proposed "Basic Law: Legislation" (a law with constitutional status). While this legislation is important in that it will better clarify the status of Basic Laws, it also contains a dangerous clause stipulating that in cases in which the Supreme Court overturns a law, the Knesset can override this decision with a majority of 65 members (a virtual guarantee, since every governing coalition contains at least this many members of Knesset). Therefore, this clause grants the Knesset the ability to further undermine the Court's authority. As such, the political echelon is attempting to undermine the legal system's ability to uphold rulings that support Basic Laws (Israel's quasi-constitution, and the laws in place to protect fundamental rights and liberties). These activities and others threaten to undermine severely the basic democratic principle of separation of powers.

This attempt already has had a number of impacts, including:

- It has weakened the Palestinian-Arab minority and constrained the community's ability to participate in the political process and influence decision-making on the national level.
- The idea of democracy as a fundamental principle underlying the state has been eroded in favor of a particularistic interpretation of Judaism. Instead of liberal, constitutional and legal principles underlying democracy, the basis is one of majority rules, and this majority determines for itself the nature of public space and decision-making. The power of the majority

currently is being used to weaken liberal values such as freedom of association, separation of powers and freedom of the judiciary.

- The political right is attempting to ensure control over the organs of government, state resources and the political system, while simultaneously blocking a return of the left to power.
- Such attempts serve to alienate the Palestinian-Arab community even further, rendering its members less inclined to take part in the Israeli political system and ultimately threaten to close off opportunities for peaceful reconciliation and cooperation between Jews and Arabs in creating a harmonious, vibrant, democratic future Israel.

Right-wing attempts to take over the political sphere and to weaken democracy in favor of the Jewish definition of the State are discussed openly and are backed by action. Within Israel, these attempts endanger historic achievements that have helped to advance the Palestinian-Arab minority's status and promote a respectful and multi-cultural society. On the geo-political level, rigorous support of the settlement enterprise and anti-peace rhetoric preclude any negotiated settlement based on the principle of two states and the establishment of a viable Palestinian state, alongside Israel, based on the 1967 borders. Presumably, this agenda currently enjoys widespread support among Jewish Israelis.

There is no doubt that while the strategies vary, the goal is to establish more firmly the Jewish nature of the state and the superior status of Jewish Israelis, while simultaneously weakening democratic principles and safeguards. The public face of this campaign can be tied to a selected group of individuals aiming to increase their public profile; however these same individuals benefit from the fruits of a well-orchestrated, strategic plan whose objective is to strengthen individuals and institutions on the right. Historically, there has been no shortage of laws that discriminate against the Palestinian-Arab minority; but the recent period represents a new low in the passage of openly discriminatory and racist legislation. Sadly, the Israeli political right has developed a new and updated model for elitism, racism, and xenophobia modified for the global community in the 21<sup>st</sup> century.

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<sup>16</sup> <http://www.acri.org.il/en/2012/02/29/position-paper-supreme-court-under-attack/>

## Head to Head Conflict?

A close examination of the various right-wing sponsored bills, proposed amendments to existing laws, and recently passed laws, both in terms of their potential to erode democracy and the sector of society at which they are aimed, leads to only one conclusion about their cumulative objective:

- Damaging the status of the Palestinian-Arab minority and limiting its political participation and, thus, its influence on decision-making and state policy;
- Shifting away from basic values of democracy, liberal principles and respect for constitutional law and move instead toward insular Judaism and a majoritarian democracy that appropriates public spaces exclusively for itself and a tyranny of the majority that directly harms the liberal values of the freedom of association and the separation of powers;
- Establishing a monopoly over State's resources and political discourse, while blocking any opportunity for the left to return to power.

In fact, these power-thirsty right-wing politicians make no effort to hide these goals or their desire to control the political sphere. Their intentions are prevalent in the dominant national discourse and translate directly into practice. A salient example is the anti-democratic legislative process, which not only endangers the historical achievements of liberalism in Israel – achievements that positively impacted the Palestinian-Arab minority as well – but also serves to impede any possibility of reaching a political solution in the broader region based on the principle of two states. In particular, the expansion of the settlement enterprise, which today seems to be within the broad consensus of the Jewish public, thwarts any possibility of creating a sustainable Palestinian state.

Only with a campaign of sustained public engagement can we, the Palestinian-Arab minority, succeed in changing the direction of the political tide overtaking the country. Public activities, education and advocacy are essential in the struggle against the racist and hate-filled politics and invective policies, which currently dominate Israeli political and public spaces. To this end, I believe it is incumbent upon us to work within the three parallel directions outlined below.

One: The Palestinian-Arab minority must work together much more closely; the community must

unite its varied and substantial forces and resources and better utilize our power in order to increase our collective influence. On this note, we should consider adopting newer and more diverse strategies in the public sphere in order to bring pressure to bear on the political system.

Two: The Palestinian-Arab minority must increase its cooperation with Jewish Israelis who want to promote Israeli democracy, while simultaneously stamping out racism and destructive forms of nationalism. Some of these individuals and groups are themselves threatened by the same or similar trends in Israeli politics and legislative advancements and are natural allies. Indeed, international experience in similar situations has demonstrated that dialogue and cooperation are essential in cases where minority groups are delegitimized. This dialogue must be based on shared principles and values.

Three: The Palestinian-Arab minority must increase its dialogue and interaction with the international community and influential international bodies. Such interaction should include legal organizations such as the UN, EU, foreign governments, civil society groups, human rights groups and others. Partners must receive regular updates on problematic developments on the ground regarding the erosion of democracy and violations of the basic rights of the Palestinian-Arab minority in Israel.

Engagement with this issue must be undertaken with the awareness that regardless of the well-established legal basis for the group's claims of individual and collective rights, the realization of those rights requires sophisticated strategies that win over public opinion. Indeed, activists and supporters need to know how to translate their support and wholehearted belief in the justice of this cause into concrete action on the three levels outlined above. In a globalizing world, the quest to influence and shape public opinion is an increasingly challenging and never-ending process. Therefore, those on the front lines must strive to learn from other such struggles, develop a strategic plan, create specific steps for action and engage in strategies that are appropriate for the global reality in which we find ourselves today. Naturally, it is important to utilize the small groups of activists already dedicated to our cause. However, now, more than ever, the Palestinian-Arab minority needs to reach out to newer and larger constituencies and speak to them in the universal language of justice,

democracy and human rights, which will resonate with them and their own interests and motivate them to take action.

Addressing these issues will not only improve the quality of life of the Palestinian-Arab minority, but, more importantly, it will protect the group's basic rights as an indigenous people living under deprivation, discrimination and oppression. Within Israel, this will involve guaranteeing their basic individual and collective rights. On the global stage, advocacy efforts will help the Palestinian people to realize their legitimate right to self-determination while living in freedom, peace and equality as mandated by principles of natural justice, various religious traditions and international law.

This mission is not unique to our times; indeed, generation after generation of peoples suffering from discrimination and oppression have struggled tirelessly for democracy, basic rights and principles of justice. Enshrining these principles in all aspects of life in the country will benefit humanity as a whole and bring about a world where equality is recognized as a supreme value.

The content of the article is the responsibility of the author and does not necessarily reflect the position of RLF.

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