

Association for civil rights in Israel - Report on human rights and democracy

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Report

Every child in Israel learns in elementary school that ours is a democratic country. Commitment to democracy is ostensibly part and parcel of our identity. Both philosophically and historically, a democracy has always been closely linked to a human rights perspective, and some would say that a commitment to human and civil rights derives

from democracy. Thus, as we examine the state of human rights in Israel in 2009, what do we learn about the state of democracy in Israel?

If human rights in this country are respected only conditionally, is our democracy conditional as well? What does our lack of moral force, which underlies the attempt to make human rights conditional, presage about the threats to our democracy – and to our identity as well?

Relations between human rights and democracy flow in both directions. On the one hand, the protection of some rights constitutes a necessary condition for democratic rule; these include freedom of expression, freedom of information, the right to organize, the right to elect and be elected, and so on. Without the ability to realize these rights, democracy cannot exist even in its narrow, formal sense – how could the majority express its will, one way or another, without open public debate and access to accurate information?

Thus, without the protection of some rights, even a formal democracy cannot endure. Conversely, the safeguarding of human rights is critical to maintaining a substantive democracy, as noted above; hence violating certain principles of democracy – such as the separation of powers or due legislative process – also harms the ability to safeguard human rights.

A core theme in this report is a disturbing trend that has been gaining currency in Israel over the past year – both in public discourse and sometimes in practice – to make human rights conditional: on fulfilling some obligation, having financial means, or belonging (or not belonging) to certain groups.

This trend, led at times by public officials, policymakers, government ministers, and Knesset Members, stands opposed to the basic tenets of a human rights perspective –

that human rights are universal, that every human being is entitled to these rights, and that they cannot be made dependent upon the fulfillment of any duties. Such stipulations harm the cause of democracy, which is grounded in the obligation to ensure human rights and protect the minority from the potential tyranny of the majority.

Conditioning or violating rights in Israel has been carried out in various ways and degrees. Sometimes it is open and explicit, especially when directed against minorities – as experienced by the Arab minority in Israel. This past year has seen a wave of racist statements, bills and initiatives threatening the freedom of expression and freedom of political activity of the Arab minority, as well as their right to their language and culture.

Also threatened have been some of the Arab minority's most basic rights – to equality, education and employment – as well as their very citizenship, all made conditional on meeting certain requirements, such as army or national service, or accepting the Zionist narrative and “declaring loyalty.” For large sectors of the Jewish population and their elected officials, Arab citizens of this country seem to be entitled to equality and safeguarding of their rights only on condition that they abandon their national identity, culture, language and historic heritage.

Financial means has become another mechanism in increased use to condition rights. Over the past two decades, the State has drastically reduced its commitment to ensure social rights – the right to a dignified existence and social security, education, health, adequate housing, and employment. One expression of this is growing privatization, which has worked its way into even the most basic social services, threatening both equality and the universality of social rights.

The realization of these rights, especially the right to education and health care, has become increasingly contingent upon financial means. When social rights are regarded as commodities – accessible only to those who can afford them – democracy is undermined, for the ability to realize social rights is a basic condition for realizing civil rights. Without these, individuals cannot fully participate in or influence the society and state in which they live.

Finally, any discussion of democracy and human rights in Israel must address the situation in the Occupied Territories. For forty-two years, Israel has ruled in an undemocratic manner in the territories it conquered in 1967 – a regime that violates the fundamental rights of several million people in every aspect of their lives.

The Occupation casts a dark shadow on Israel's status as a democracy. The human rights of Palestinians living in the Occupied Territories cannot be made conditional – as they do not exist at all. Israeli law has never offered to protect the rights of Palestinians in the territories; nor has the Supreme Court proven itself capable of ensuring even minimal protection for human rights under conditions of occupation. The result of this protracted Occupation has been an undermining of the foundations of democracy within Israel proper – such as exposing the fragility of freedom of expression in Israel during the Gaza war.

Palestinian-Arab Citizens of Israel: Rights - as long as you're loyal

Discrimination against Israel's Arab citizens, which has existed as long as the State itself, has been documented in many surveys and studies, and recognized in court rulings, government decisions, State Comptroller reports, and other official papers.

Nine years have passed since the events of October 2000, and six years since publication of the recommendations of the Or Commission of Inquiry, appointed by the Israeli government to investigate those events. The Or Commission has recommended that the State "act to erase the stain of discrimination against Arab citizens in all its various forms and expressions," but in the interim, the gap between Arabs and Jews in the areas enumerated by the commission – including education, regional planning, and land allocation – have only widened in recent times.

Over the last few years, and especially over the past year, discrimination against and exclusion of the Arab minority have worsened, taking on new and more severe expressions. The Arab citizens of Israel suffer first from the continuing decline of basic democratic values. Statements made by government ministers, political officials and other public figures reflect their view of Arab citizens as suspect at best; at worst they are portrayed as enemies. The past year saw a wave of proposed laws, racist in their very nature, which could ultimately harm freedom of expression, freedom of political participation, and the right of Arab citizens to preserve their own language and culture.

Some would make the rights of Arab citizens conditional upon fulfilling certain duties and obligations, such as mandatory military or national service, or explicit acceptance of the Zionist narrative including a loyalty oath to Israel and the Zionist vision.

These contradict the basic tenets of democracy in which rights are inalienable and not contingent upon preconditions. Statements and initiatives of this sort have disregarded the unique cultural-linguistic heritage of Arab citizens as an ethnic minority, and undermine their legitimacy.

Not only do they violate Arab citizens' rights to equality, dignity, and freedom of expression, they also harm their right to maintain their distinct national and cultural character. For many Jewish citizens and their elected officials, Arab Israelis are entitled to equality and protection of their rights only on condition that they relinquish their national identity, culture, language, and historic heritage.

The Proposed "Nakba Law"

In May 2009, the government supported the Knesset bill that would prohibit the marking of "Nakba Day" (the term, meaning "catastrophe" in Arabic, used by Palestinians to denote the events of the 1948 war and the establishment of Israel), setting prison terms for anyone commemorating this day. In the wake of public outrage, the bill was revised and passed in July in a preliminary reading. The revised version eliminated the threat of imprisonment, but included a clause that would withdraw public funding from any State-supported body that held activities marking the Nakba in any way.

At the same time, it was reported that the current Minister of Education decided to remove the concept of Nakba from the Arab school curriculum – a concept that was only recently introduced to the curriculum by the previous Minister of Education. The ban on marking Nakba Day has severe implications. Palestinian citizens have the right to express their opinions, their collective identity, and their collective memory. Commemoration of the Nakba poses no security threat to Israel, but is rather a legitimate expression of a basic right shared by every individual, group, or nation to express its pain at what it considers to be a catastrophe. The proposed Nakba Law not only violates the rights of the Arab minority, but crosses a red line in suppressing freedom of expression for us all.

Removal of Arab Place Names from Road Signs

In July 2009, Minister of Transportation Yisrael Katz decided to revise road signs, doing away with Arab place names (in Arabic and English types) and replacing them with Arabic transliteration of the Hebrew names. Setting aside the questionable logic of this move, the decision is in complete contravention of the recognized status of Arabic as an official language in Israel, which the Supreme Court has upheld. This is one more attempt to symbolically erase the Arab presence from the public sphere.

Conditioning Rights on Military Service

Earlier this year in August, Foreign Minister Avigdor Lieberman announced his intention to bar any applicant who did not complete military or national service from the Ministry's diplomatic training program. Another glaring example of this sort of discrimination was the firing by Israel Railways of forty Arab crossing guards at train junctions.

Their employment was terminated when a condition was added to the vacancy announcement, requiring that all employees have served in the Israeli army ... In response to interventions by ACRI and like-minded organizations, the Ministry of Transportation announced that the matter is under further consideration and that no final decision has yet been taken.

However, the policy behind the decision has already been implemented in other cases. On some signs directing to Acre and Lod, for example, the Arabic city names have been replaced with transliterations of the Hebrew names written in Arabic script.

Discrimination against those who have not served in the army harms not only the Arab minority in Israel, but also ultra-Orthodox Jews and the physically disabled, who are exempt from service. Conditioning rights upon army service has been directed against Jewish Israelis as well.

Over the last few years, for example, several mayors in Israel have announced that they would refuse to allow entertainers who had not served in the army to perform in their cities. Notwithstanding these examples, the use of military service as a precondition for rights has been wielded over the years primarily as a tool for discriminating against Arab citizens, and preventing the equal and just allocation of budgets and other public resources.

Conditional Citizenship (and by implication all other rights)

... In 1958, the United States Supreme Court ruled that “citizenship is not a license that expires upon misbehavior.” Ever since, citizenship has been recognized around the world as a basic right from which all other rights derive. Here in Israel, on the other hand, citizenship remains a “conditional right,” certainly where Arab citizens are concerned.

In May 2009, for example, Minister Eli Yishai ordered the Ministry of the Interior to begin the process of revoking citizenship of four Arab citizens merely suspected of involvement in activities harming state security. Revoking citizenship on the grounds of “breach of trust” is a tactic of totalitarian regimes; the broadly accepted position among democratic states today is that “breach of trust” can never serve as grounds for canceling citizenship.

Such actions are exponentially more serious when they are taken on the sole basis of mere allegations. The appropriate response to a citizen suspected of trying to harm state security and the safety of its citizens does not lie in the revocation of citizenship, but rather in the criminal justice system. When such suspicions arise, the individual should be put on trial. If he or she is found guilty, the punishment will be determined by the courts.

Throughout the history of Israel, only in isolated cases has the Minister of the Interior revoked individuals’ citizenship. In every case the person in question was Arab, despite the fact that Jewish citizens have also been convicted of treason and espionage, having transmitted state secrets across enemy lines. Initiatives to revoke citizenship do not preserve state security, and only serve to convey a discriminatory and humiliating message to Arab citizens, namely that Israeli citizenship is theirs only conditionally, and not guaranteed.

Violating the Right to Housing

Making rights conditional on “loyalty” has impacted the right to housing this past year. The media reported that the Misgav Regional Council was requiring candidates for residence to pledge loyalty to the Zionist vision and the values of the State of Israel as a Jewish democratic state. Although never stated explicitly, this requirement was clearly intended to prevent Arab citizens from obtaining residence in the region’s communities. Some Knesset Members were considering submission of a similar bill.

... [A]n agreement signed in June 2009 between the State and the Jewish National Fund in the context of land reform provides a further example of discrimination in land allocation. According to this agreement, which enables some privatization of land as part of the reform, the JNF will transfer to the State its ownership of lands in the central region in exchange for available and undeveloped lands in the Negev and Galilee regions. The agreement establishes that the State will administer the JNF lands “in a manner that will preserve the basic principles of the JNF vis-à-vis its lands.”

The significance of this clause effectively ensures the continued policy of discrimination against Arab citizens in allocating and marketing lands, despite the fact

that the body replacing the Israel Land Administration in administering these lands is public, i.e., obligated to respect the principles of equality, fairness, and distributive justice. This policy also dismisses the legal opinion of the Attorney-General, who stated that JNF lands must be administered on the basis of equality. In short, the agreement violates the basic rights of Arab citizens, specifically their right to equality and dignity.

Violating Freedom of Expression and Political Involvement

[L]aw enforcement officials attempted to dictate to political agenda of the Israeli mainstream to the Arab minority, and to nip in the bud any political dissent by Arab citizens.

The Arab population in Israel is part of the Palestinian people. In light of the cultural connection and familial ties between Arabs in Israel and Gaza residents, it was natural and to be expected that protest of the war would occur on a larger scale in the Arab sector.

The conduct of security forces toward Arab protest highlights the insufficient understanding on the part of the establishment and law enforcement agents of the limits of freedom of expression as applied to the Arab minority.

A similar point was noted by the Or Commission, when describing the reaction of security forces to the protest of Arab citizens during the events of October 2000.