

# Bill for Recognition of the Arab Minority as a National Minority

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## Proposed Basic Law for Recognition of the Arab Minority as a National Minority

In early November 2016, MK Jamal Zahalka (Joint List) submitted a bill for recognition of the Arab minority as a national minority. All the other members of his party joined him in sponsoring the bill. The bill states that recognition of the rights of the national minority means recognizing its right to manage its cultural affairs independently, ensuring appropriate representation of the Arab minority in state institutions, recognizing the Arabs' right to establish representative political institutions, granting the right of the minority to participate actively in making decisions that affect it, and ensuring that state institutions will take no significant decision with consequences for the Arab population without its participation. The bill also states that the state shall take measures through the education system to foster the history, heritage, and culture of the Arab minority. The proposed basic law includes a "restrictive clause" stating that no laws shall be enacted contravening the basic law except for a worthy purpose, and that any such laws must be consistent with the values of Israel as a democratic country. The bill also includes a "stability clause" stating that emergency regulations cannot alter the wording of the bill, repeal it, or establish conditions for it.

The bill was sent for a preliminary reading in the Knesset plenum, and – as expected – was rejected, with 77 opposed versus 19 in favor. During

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the debate Minister of Justice MK Ayelet Shaked stated, “Israel is the only country of the Jewish people. The Arab nation has rights in other countries.”

This is not the first time that Arab MKs tried to promote a bill of this sort. Identical bills were proposed by Arab MKs since 2001. There were actually five completely identical initiatives (May 2001, July 2003, October 2009, July 2013, and June 2015), yet in contrast to the current proposal, the previous bills never reached the stage of a preliminary reading in the Knesset plenum. In the spirit of the bill for recognition of the Arab minority as a national minority, Arab MKs submitted a bill in July 2016 on amending the State Education Law in Israel, namely, adding a clause to the existing law dealing with the “goals of Arab education.” In this framework, the bill insists on the need to enhance the status of the Arabic language and reinforce the Arab-Palestinian identity in the education system for the purpose of strengthening the Palestinian national identity, memory, and narrative of the Arab students.

While the various proposed bills for recognition of the Arab minority as a national minority were worded identically, the differences lay in their sponsors. The two most recent proposals, from June and November 2016, were sponsored by all the MKs in the Joint List, while previous proposals (May 2001 and July 2003) were sponsored by MKs from Balad, including its Party head Azmi Bishara. The dominant voice in the Joint List is that of Hadash, which since the 1970s has generally advocated a moderate position on relations with the state, refraining from demands of a significantly national character. This contrasted with the Balad Party, whose founding in the 1990s reflected opposition to the older political leadership and the pragmatic civil line it represented for many years. The stance of the Joint List under the leadership of Ayman Odeh, a member of the Hadash Party, in favor of the proposed bill, with its unmistakable nationalistic line, reflects a new development that sheds light on the background and motives behind the measure taken by the Arab MKs.

## **Background to the Bill**

Analysis of the bill’s background and the motives behind it considers two time dimensions: the long term, which takes into account the fundamental processes underway in the Arab minority in Israel in recent decades, and the short term, involving the changes in relations between Jews and Arabs in recent years. These two dimensions in effect represent two ostensibly contradictory interpretations of what the Arab parliamentarians are doing.

The long term perspective indicates a process of constructing the collective national identity of the Arab minority in Israel, and therefore regards the proposal as a measure incorporating Arab activism and willingness to challenge the establishment and the Jewish majority society. The current context of Jewish-Arab relations, on the other hand, indicates that the proposal reflects deep despair on the part of the Arab leadership regarding developments in relations between the Israeli establishment and the Arab minority, and the bill thus implies defense, helplessness, and signals as to the possible consequences of government policy. In fact, however, these two perspectives complement each other more than they contradict one another.

### *The Long Term*

The bills submitted by the Arab parliamentarians since 2001 reflect the historic process of creating the identity of the Arab minority as a collective minority with a national Palestinian Arab identity. This process has acquired a dialectical dimension over the years, in which the affiliation of Israel's Arabs with the state became deeper in the political and civil aspect, but at the same time, the collective Palestinian identity of the Arab minority in Israel grew, based on the Palestinian national heritage shared by the Palestinian population in the West Bank and the Gaza Strip and including a particular local dimension separate from the general Palestinian narrative. The balance between these two elements, the political and civil aspect and the national cultural aspect, incurred tensions that were exacerbated in the general context of the Arab-Israeli and Israeli-Palestinian conflicts, and due to the unique situation of the Arabs in Israel as a population poised between two spheres – the Israeli and the Arab-Palestinian – engaged in an ongoing conflict.

The construction of the complex identity of the Arabs in Israel is an ongoing process marked by prominent milestones. The 1970s saw a rise in Palestinian identity.<sup>1</sup> This process was accompanied by both increasing readiness for political activism with respect to the state and a profound feeling of alienation, as expressed in growing support among the Arab population for the national struggle of the Palestinians in the West Bank and the Gaza Strip, and willingness to take to the streets in protest. With the deepening of national identity, there were heightened political demands for civil equality, which to a great extent became the political banner of the Hadash party. During the 1980s, the process of strengthening the Palestinian

national identity of the Arabs in Israel was consolidated, in part under the influence of the first intifada (1987-1991), which shaped their political activities but generated a lack of tolerance from the Jewish majority in Israel. In the 1990s, following the Oslo Accords, more direct contact between the Arab political elite in Israel and the political elite on the West Bank and in the Gaza Strip (the leadership of the Palestinian Authority) became possible, as well as ties with the Palestinian public in general.<sup>2</sup>

Palestinian national awareness, which became stronger in the 1990s, incorporated, inter alia, the return of the concept of *nakba* to public discourse, as reflected in the organization of assemblies, parades, exhibitions, and seminars, and the publication of dozens of articles in the Palestinian and Arab press dealing with its significance in Palestinian national life.<sup>3</sup> The growing feeling of Palestinian identity among Arabs in Israel peaked in the first decade of the 21<sup>st</sup> century, in light of the second intifada<sup>4</sup> and the events of October 2000, in which Arab demonstrators in the Galilee and the Triangle clashed with security and police forces.

Another consistent feature of the process of constructing the national identity of the Arab minority in Israel is the greater demands made of the state. Jeene's "ethnic bargaining" model,<sup>5</sup> which focuses on methods of bargaining by minority groups with the state and potential modes of action, sheds light on the process that the Arab minority has undergone in formulating its demands. The model lists the range of possible minority demands vis-à-vis a majority on a continuum, in which the initial reference point is a civil-political demand for reverse discrimination on the basis of the idea of material equality. From there, the model develops directly into demands with a significant national dimension for political equality. This begins with a demand for cultural autonomy, proceeds to a demand for independent political-territorial management, and continues ultimately to a "secession strategy." The decision by the minority about what strategy to employ depends on many variables, including the establishment policy.

Thus a long term analysis suggests that the Arab minority's demands of the state range from demands focusing on material equality and elimination of social gaps with the Jewish public (mainly in the 1970s) to demands with a significant collective national dimension. These demands included calls for making Israel a bi-national state or a state of all its citizens. They received substantial political expression in the 1990s, for example with the founding of what in the perspective of Jewish politics were activist political movements such as Balad. These movements dared to voice demands with

an explicitly national dimension, and made a substantial contribution to encouragement of the national discourse within Arab politics and Arab popular opinion.

This does not mean that the demands for civil equality have faded or vanished from the political game, but they were raised simultaneously with national demands constituting a profound paradigm shift. Making Israel a “country of all its citizens,” for example, was explained as being the ultimate solution for civil inequality, because the source of civil inequality is political inequality. The peak in the minority formulating its collective national demands was the publication of the Arab national vision documents in 2006-2007. These presented an explicit Arab demand for a paradigm shift in Israel, from the 1948 paradigm – i.e., a democratic Jewish state – to a “democratic order” paradigm, meaning in the effect the introduction of a bi-national state and the granting of collective national rights to the Arab minority in a number of areas, including the political sphere – i.e., the founding of independent political institutions of the Arab minority, together with autonomous management in culture and society.

From this perspective, proposing bills for recognition of the Arab minority as a national minority reflects the historic process of the development of the national identity of the Arab minority, and what follows it amounts to a process of making greater national demands. The significance lies in a forceful demand for a change in priorities in the country with respect to the minority that amounts to a change of Israel’s constitutional foundations, full and equal inclusion of Arabs in the state’s decision making process,<sup>6</sup> and the granting of political and legal equality, together with instrumental equality.<sup>7</sup>

One reflection of this lies in the proposals themselves, which state that the Arab minority in Israel is a national minority entitled not only to full rights as individuals, but also to collective rights. The bills include the demand to allow the Arab minority to manage its cultural affairs (cultural autonomy), to be included on an equal basis in all state institutions, and to establish and consolidate representative institutions in every sphere in which Arabs are distinctive as a national minority. It is also proposed that Arabic be made a second official language, and that Israel recognize the special affinity of the Arab minority with the Palestinian people and other Arab peoples, and allow the Arab citizens to express their Arab identity.<sup>8</sup>

The explanation of the proposed bill states: “Israeli law does not recognize collective rights for Arab citizens of Israel, but only on the basis of religious

adherence. The authorities in Israel talk officially about minorities or a non-Jewish population, not about an Arab national minority...The goal of this bill is to recognize the Arab minority in Israel as an Arab national minority entitled to collective rights, and to base those rights on fully equal civil rights of the Arab citizens as individuals. Recognition of the rights of the minority nationality as a collective also means recognition of its right to manage its cultural affairs.”<sup>9</sup>

### *The Current Dimension*

At the same time, the bills cannot be separated from developments regarding the Arab minority’s relations with the Israeli establishment and the Jewish majority. Since the events of October 2000, relations between the Arab population and the state have deteriorated. The violent events and their aftermath had a profound effect on the quality of the relations, and the forming of the Or Commission, which attempted to investigate the roots of the events, did not temper the mutual hostility between Jews and Arabs. Another factor was the fact that the Lapid Committee, which was supposed to translate the principles recommended by the Or Commission into practical measures, diluted the spirit of the recommendations. Relatively little progress was made in the ensuing years toward achieving civil equality and narrowing gaps in various areas, such as education, budgets, local authorities, housing, and infrastructure in the Arab communities.

At the same time, in a broader aspect, not only did relations between the state and the Arab minority collapse, but hope too was lost. The expectations of peace and the achievement of a new Middle East gave way to the depressing situation of the second intifada, following the total failure of the efforts led by Prime Minister Ehud Barak to end the interim agreement and complete the negotiations on a permanent settlement. These events were accompanied by the weakening of the Palestinian Authority, the wave of terrorism that swept over Israel starting in the fall of 2000, and some retreat from the previous measures toward normalization between Israel and the Arab world. With the takeover of the Gaza Strip by Hamas and the ensuing military campaign by Israel against Hezbollah (2006), Israel entered a new era with completely different characteristics than those of the 1990s.

These events also had a material effect on Israeli society. The liberal civil discourse that characterized Israeli society during the period of the political negotiations, which emphasized making Israel a liberal pluralistic

society and making human and group rights a priority, was replaced by an ethnic-national discourse. In face of the collapse of the process of achieving a settlement, and what was perceived as the growing willingness of many players in the external system (Iran, Hezbollah, Hamas) to challenge the very legitimacy of Israel and its basic ideological foundations, Israeli society moved to fortify the status and security of the Jewish collective. In a similar spirit, the events of October 2000 were regarded by the Jewish public as an internal civil rebellion on the part of the Arab political leadership and elements in the population. It was only a short step from there to punitive measures against the Arab sector following the events, consisting of Jews refraining from entering Arab communities for commercial and economic ties. Six years after the events, the Jewish political system took a similar attitude toward the Arab vision documents, regarding them as an expression of an effort by the Arab intellectual leadership to undermine the foundations of Israel as a democratic Jewish state. The severe responses by all parts of the Jewish political spectrum against the texts, and especially against their authors, can be interpreted in the light of this background.

The process underway in Israeli society over the past 15 years is also reflected in the attitude toward Arab society in Israel. At the popular level, an explicit expression of this was reinforcement of racist trends among groups in Jewish society. Opinion surveys indicated dissatisfaction in Jewish society at living in the presence of Arab society, as reflected, for example, in the perception of Arabs as “enemies,” but also in the unwillingness shown by the various surveys to live next to Arabs and conduct reciprocal social ties with them.<sup>10</sup> Anti-Arab trends were clear in national politics, as highlighted in recent years in a series of legislative processes aimed at restricting the presence of the Arab minority in the Israeli political and cultural arena, for example the proposed Basic Law: Israel as the Nation-State of the Jewish People, which was designed to formally anchor Israel’s status as the country of the Jewish nation. To this was added the effort to reduce Arab representation in the Knesset by increasing the minimum percentage that a party must receive in an election in order to obtain representation in the Knesset; the campaign against political parties stretching the limits of Jewish democracy, such as Balad and the northern branch of the Islamic movement in Israel, which was classified as an illegal organization; and the anti-Arab discourse, some of which was encouraged by ruling political groups, for example following the December 2016 wave of fires in the country, in which Arab citizens were falsely accused of nationally motivated arson.

The last 15 years have seen alienation between Jewish and Arab society and a worsening in the attitude of the Jewish politics and popular opinion toward the Arab minority. This trend finds Arab society and politics more anxious about the future of its relations with the Jewish majority society. Arab political groups are expressing growing concern about what they describe as the oppressiveness of the Jewish majority and continual erosion in the ability of the Arab minority to defend its rights as a national minority, given the trend toward political exclusion and an ostensible increasing attempt to exclude it from the political sphere and further limit its ability to influence the state agenda. This feeling is especially prominent among the Arab MKs from the Joint List, because the emerging trend toward exclusion on the part of the Jewish establishment casts doubt on the ability to exert political influence and the efforts made in the past 18 months to leverage the List's achievements in the elections for the purpose of making progress toward the sector's goals in the social and civil sphere. This has implications that affect the status of the List in Arab public opinion, as already reflected in some of the opinion surveys showing limited support for Ayman Odeh, and the inclination of the Arab public to stay away from the polls in national elections.

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In this respect, the bills since 2001 for recognition of the Arab minority as a national minority reflect the process of excluding the Arab minority from the political and cultural arena in Israel, and the downtrend in relations between Jews and Arabs. The feeling of concern among minority groups over the current trends accompanying Jewish-Arab relations since 2000, and in recent years to a greater extent, is translated into an almost desperate effort to anchor the minority's rights through the only type of action available to the minority, i.e., the parliamentary axis. It therefore appears that the bills for recognition of the Arab minority are designed less to challenge the Jewish majority, and more to protect the Arab minority against what is perceived as the oppression of the majority – i.e., that majority's use of its political

power to harm the minority's rights, and to attempt to place a type of barrier against the current process in which the Arab minority is losing its foothold within the Israeli political and cultural sphere, and is being pushed

relentlessly within itself. From this perspective, the measures should also be regarded as a type of signal to the state authorities that excluding the minority from the political sphere in Israel is liable to lead that minority toward nationalist separatism.

An explicit expression appeared in the remarks by Zahalka during the debate on the preliminary reading of the bill, in which he said, "Everything in this bill is found in international law. It is based on a modern concept of human rights that includes, in addition to civil rights, the right of belonging. It should not be restricted, nor should the ruling power be used to attempt to change it. The goal is defense of the Arab minority against the ruthlessness of the majority."<sup>11</sup> It is not just Zahalka's remarks that support the idea that the bill is defensive in nature, however; an analysis of the political-parliamentary context leads to the same conclusion. Zahalka's bill in the name of the Joint List follows a Knesset bill popularly referred to as the Muezzin bill, which forbids muezzins in mosques to call worshippers to prayers using amplification from 11:00 PM until 7:00 AM because of the environmental noise. The bill sponsored by MK Ahmed Tibi for recognition of the Arab minority as a national minority, which was proposed in 2014, followed efforts by members of the Jewish Home Party to push through a Basic Law: Israel as the Nation-State of the Jewish People, thereby incorporating the responsive principle in the bill proposed by the Arab MKs to what Tibi called, "an attempt to harm Arab minority citizens."<sup>12</sup>

### **Significance and Recommendations**

The latest proposal of the bill for recognition of the Arab minority as a national minority reflects two processes. On the one hand, it reflects a long term process of the formation of the national identity of the Arab minority as a collective minority. In this framework, the minority has adopted assertive measures, which reflects the development of identity taking place in that minority. On the other hand, it also echoes the process characterizing the worsening attitude and alienation between the state and the Arab population over the past 15 years. In this framework, the minority leadership, out of a deep sense of anxiety and political persecution, seeks to adopt constitutional measures aimed at defending its basic rights, and at the same time signal to the ruling groups that excluding the minority is liable to exact a political cost in the form of a nationalistic separatist attitude.

These two processes are ostensibly contradictory. One embodies challenge and activism, while the second is passive and defensive. In

practice, they reflect the existing complexity in almost every aspect of the Arab minority's status in the country, as well as the difficulties involving the question of the complex identity from one level, the civil-Israeli level, to the second level, the Palestinian national level. Through this dichotomy, it is necessary to analyze the repeated proposal of the bills as encapsulating the development of the minority's national identity, while reformulating its demands from the state. These have grown from the demand for civil equality, as reflected in the demand for a narrowing of social and economic gaps, into demands for political equality, reflected in a demand for equal participation in shaping the state agenda, and for a real partnership in the public sphere.

The demand for recognition of the Arab community as a national minority, which from the perspective of Jewish politics reflects the separate national identity of the Arabs in Israel, has been made in the past decade by Arab politicians not only as an activist objective in challenging the existing order of Jewish hegemony, but from the opposite point of departure. There is genuine fear of total civil exclusion from the Israeli political and cultural arena resulting from the government's exclusion policy. As such, rather than designed to challenge the state and destroy its constitutional foundations, the demand for recognition of the Arab minority as a national minority is aimed at a more modest objective of anchoring the basic rights of the Arab minority and preventing their erosion. From this perspective, it appears that the Arab minority is forced by the growing effort on the part of the Israel establishment, backed by the Jewish public, to exclude the Arabs from the general Israeli political sphere, into presenting a national agenda in the form of a demand for recognition as a national minority.

This is a significant issue. From the Jewish lens, as expressed by the Minister of Justice, the bill proposed by the Arab MKs is perceived as

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opposition to the state, and aggravates hostility to the Arabs and encourages measures against them, like a political whirlwind in which it is difficult to distinguish between cause and effect. Even if Jewish politics are unable to accept the bills proposed by the Arab MK because they constitute a change in the constitutional foundations of Israel and the basic

principles of Israel as a Jewish state, the political establishment should regard the proposal of the Arab bills as a sign of the harsh atmosphere prevailing in Arab politics as a result of the government's policy, and as a

warning of the development of relations with the Arab minority, which is losing its foothold in the public arena and unwillingly pushed back into itself.

This development constitutes a threat to elements of social cohesion in Israel, and has the potential to develop into a situation of a state within a state, with characteristics of both social and national separatism. Furthermore, this trend runs counter to what has emerged in recent years as the strategy of the Arab political leadership, as represented by the Joint List, of connecting with the focus of social discourse in Israel, and even cooperating with the government in measures aimed at promoting socioeconomic equality between Jews and Arabs. From this perspective, these opposing trends in government policy are liable to return Arab politics to the political extremes of the foundations of the national discourse represented by factions like Balad, and to foundations of the Islamic discourse represented by the northern branch of the Islamic movement in Israel. The Israeli government should therefore reassess its overall policy toward the Arab minority, and together with the effort to narrow the civil gaps between Arabs and Jews and integrate the Arabs in the Israeli economy, should realize the problematic significance of the constitutional and other measures excluding the minority from the political and cultural arena in Israel, and restrain promotion of such matters.

## Notes

- 1 M. Amara and S. Kabaha, *Divided Identity: Political Division and Social Reflections in a Divided Village* (Givat Haviva: Institute for Peace Studies, 1996); and R. Cohen, *Strangers in Their Own Home* (Tel Aviv: Tel Aviv University, 2006).
- 2 N. Rouhana, *Palestinian Citizens in an Ethnic Jewish State: Identities in Conflict* (New Haven: Yale University Press, 1997).
- 3 Esther Webman, *The Nakba: A Founding Myth in Palestinian National Identity*, in *From Intifada to War: Milestones in the Palestinian Experience*, ed. Tamar Yegnes (Tel Aviv: Moshe Dayan Center for Middle Eastern and African Studies at Tel Aviv University, 2003), pp. 109-17.
- 4 R. Israeli, *Arabs in Israel: Friends or Foe?* (Shaarei Tikva, Ariel Center for Policy Research, 2002).
- 5 E. Jeene, "A Bargaining Theory of Minority Demands: Explaining the Dog that Did not Bite," *International Studies Quarterly* 48 (2004): 729-54.
- 6 Cohen, *Strangers in Their Own Home*.
- 7 Yitzhak Reiter, "Internal and External Factors in the Jewish-Arab Conflict in Israel," in *Jews and Arabs in Israel Facing a Changing Reality*, eds. Shlomo

- Hasson and Khaled Abu-Asaba (Jerusalem: Floersheimer Institute for Policy Studies, 2004), pp. 54-60.
- 8 Israel has no legislation defining the status of Hebrew and Arabic as official languages in the country. Their definition as official languages is anchored in Mandatory legislation. Nevertheless, the prevailing practice in Israel gives Hebrew senior status as being, for example, the language of legislation. The bill proposed by the Arab factions includes the demand for formal anchoring of the Arabic language as an official language in Israel.
  - 9 For the complete version of the bill, see Knesset website: [http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggesti  
onssearch&lawitemid=565337](http://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggesti<br/>onssearch&lawitemid=565337).
  - 10 A 2017 opinion survey by the Institute for National Security Studies found that 25 percent of the Jewish public perceive Arabs as potential enemies, and 41 percent believe that Arabs should be respected, but also suspected (annual conference of the Institute for National Security Studies, January 23, 2017).
  - 11 Knesset announcement, rejected on the preliminary reading: Basic Law: Arab Minority as a National Minority, November 9, 2016, <http://main.knesset.gov.il/News/PressReleases/pages/press091116-9ms5.aspx>.
  - 12 Moran Azulay and Hassan Shaalan, "Muezzin Bill Passes Preliminary Reading," *Ynet*, March 8, 2017, <http://www.ynetnews.com/articles/0,7340,L-4932562,00.html>.