

C I T I Z E N S
WITHOUT
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Nimer Sultany



Mada's First Annual Political Monitoring Report:
Israel and The Palestinian Minority 2000–2002

CITIZENS WITHOUT CITIZENSHIP

Nimer Sultany
Citizens Without Citizenship
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Preface

The mass protests of October 2000 were a milestone in the relations between Israel and the Palestinian citizens of the state. The demonstrations greatly affected the Palestinian citizens' consciousness, in addition to majority-minority relations and the state's attitude toward and treatment of the Palestinian minority.

Over the past two and a half years, the delegitimization of the Palestinian minority in Israel has increased. This is especially true regarding its political leadership or to be more precise, certain members of that leadership. Following the demonstrations, the Israeli authorities acted to diminish the political legitimacy of the leadership and subordinate it to the Zionist consensus. This consensus developed following the American-Israeli failure to dictate the terms of an agreement between the Palestinians and the Israelis at the Camp David summit meeting in July 2000. Meanwhile, the Palestinian minority in Israel, being part of the Palestinian people, supported the Palestinian position, and thus identified with the struggle against occupation during al-Aqsa intifada. This identification was strengthened by Israel's oppressive reaction to the intifada and to the killing of Palestinian civilians. Indeed, in the demonstrations that took place within Palestinian communities in Israel, Israel acted brutally, similar to its practices in the Occupied Territories. It became apparent, once again, that Arab citizens lack meaningful and substantive citizenship in the State of Israel.

To monitor the attitude of the State of Israel and of Jewish Israeli society toward Palestinian citizens of the state, *Mada—The Arab Center for Applied Social Research*, initiated the *Political Monitoring Project* which was envisioned and academically planned by Prof. Nadim Rouhana. This report is part of the project. It focuses on the period from the end of September 2000 to the end of December 2002. By monitoring numerous and varied areas, Mada seeks to present, as precisely and clearly as possible, the changes that have occurred since the beginning of al-Aqsa intifada and the October 2000 protests in the official and unofficial attitude of the state and a large part of Jewish Israeli society toward the Palestinian minority. The process of exclusion, alienation and delegitimization of Palestinian citizens in all areas of life in Israel is readily discernible. This report maps these processes and traces the manifestations of the majority's attitude toward Palestinian citizens.

The first chapter of this report discusses new laws and proposed bills during the period surveyed. These laws and bills indicate the decline in the legal and civil status of Palestinian citizens of Israel. The laws that were enacted

restricted the political rights of the Palestinian minority and its ability to exercise an already limited political power inherent by virtue of the definition of the state as a Jewish state. This chapter also includes decisions of Knesset committees, which possess administrative and quasi-judicial powers, against members of the Knesset (MKs) belonging to Arab political parties. These decisions attempt to silence the voice of the minority and of the political opposition when it questions the consensus of the majority. The chapter describes the stages of the legislative process and of the committee decisions, as well as the public debate that they generated.

Chapter Two discusses decisions of the government and of government ministries. The decisions presented violate directly and/or indirectly the rights of the Palestinian minority. They clearly reflect the exclusion of and discrimination against the Palestinian minority, and reveal the rationale underlying the decisions of Israeli policymakers.

Chapter Three presents a number of public opinion surveys conducted by leading Israeli research institutes and the press. The polls were taken among the adult population in Israel, in most instances the Jewish population. These surveys assist in understanding the opinions and attitudes of the Jewish majority on issues relating to the citizenship status of Palestinians in Israel. The findings indicate a prevalent attitude of hostility, prejudice, and hatred, as well as anti-democratic, anti-liberal views vis-à-vis the rights of Palestinian citizens of the state.

Chapter Four provides numerous examples of public expressions of hatred and various other forms of racism, discrimination, and even violence against the Palestinian minority on the basis of national belonging. The examples highlighted in the chapter include the oral and written comments of political leaders, decision-makers and opinion-shapers, namely, government ministers, MKs, academics, journalists, rabbis, and other public figures. While some of these individuals represent extremist views of those who lie at the margins of Israeli society, most of the illustrations come from within what has become mainstream thought in Israel. This chapter illustrates what is referred to in this report as the “popular culture of hate.”

By presenting these examples together, a hegemonic discourse of hate becomes readily apparent, one that dominates public debate, public consciousness, and reality itself. This report presents this phenomenon and its manifestations. An in-depth analysis of the phenomenon is not presented; neither is its historical background or the underlying foundation that enabled its creation. Discrimination and racism against the Palestinian minority in Israel since the founding of the state is also not discussed. Rather, a more modest, but sufficiently ambitious, task was chosen: to monitor these phenomena on an annual basis. This report is the first step in this direction. *Mada—The Arab Center for Applied*

Social Research intends to issue an annual report on these matters in order to provide a comprehensive and reliable information base. Comparison of the period surveyed in this report with the period that preceded it and with periods to follow will allow Mada and the readers of these chapters to monitor the changes in Israeli society, the reasons they occurred, the principal manner of their expression, and the differences between periods. Mada seeks to create knowledge and not just information. The organization aims to challenge researchers and readers alike to take the information provided and to use it for further political and social analysis of the issues raised.

To the greatest extent possible, the terminology used as part of the hegemonic discourse in Israel was avoided in describing the events and phenomena highlighted in this report. This was done because of Mada's understanding of the important role of language in creating knowledge. The reader will readily notice that in the very first lines noted above, the report uses the term "mass protests of October 2000," rather than the commonly used phrase "the events of October" or "the October riots." The term "events" gives a neutral and accidental facade to the demonstrations, removing the sting of protest from them. The term "riots" seeks to attach a negative, illegitimate label to the political demonstrations. Similarly, the report carefully and interchangeably uses the "Palestinian minority in Israel" or "Palestinian citizens in Israel" or "the Arab minority." The terms that Israel uses for these citizens are "minorities," "non-Jews," "Arab Israelis" and "Israeli Arabs." All of these latter terms seek to repress the individuals' Palestinian identity, to prevent empowerment of their perception and behavior, and to preserve their marginal status in Israeli life. However, these and other similar terms were preserved when quoted, as they reflect the actual words used by the speaker or writer. This is also necessary to ensure that the research is presented accurately and precisely. So that the context in which the comments were made is clear, several lengthy quotations are also noted in this report.

The facts presented in this report come from the website of the Knesset, government websites, the major Hebrew-language daily newspapers (*Ha'aretz*, *Yediot Aharonot*, and *Ma'ariv*), Arabic-language newspapers, and websites specializing in Israeli news. In addition to monitoring the relevant issues as presented in the electronic and written media, Mada also relied on other sources, such as academic publications.

The objective in writing this report is to attempt to influence public opinion in Israel by eliminating the phenomenon described at length in this report, or at least to reduce its territorial and psychological breadth. This report seeks to present a true image of Israeli society and of the dangerous course along which it is swiftly moving.

Many people were involved in preparing this report, each of whom deserves appreciation and acknowledgment: the Director General of Mada, Prof. Nadim

Rouhana, the academic supervisor of this project, who read drafts of the report and offered enlightening observations; Nabil al-Saleh, 'Ameed S'aabneh, and Suliman Mahameed for their helpful comments; Areej Sabbagh for assisting in the research; Rina Rosenberg, the copy editor, who edited the English version with great care and precision, and saved me from many mistakes; the skillful translators and language editors; and, finally, Remonda Mansour, who performed the tiring task of coordinating, and maintaining contacts with the editors and translators. If this report deserves praise, these individuals deserve to share it with me. I am, of course, solely responsible for any mistakes that made their way into the final edition.

Nimer Sultany, Attorney
Coordinator, Political Monitoring Project
June 2003

LEGISLATION AND
RESOLUTIONS IN
THE KNESSET

Introduction

This chapter examines new laws passed, proposed bills introduced, and other resolutions adopted by the Fifteenth Knesset from the end of September 2000 to the end of December 2002.¹ Specifically, this chapter inventories recent legislation that discriminates against and restricts the rights of Palestinian citizens in Israel, perpetuating their inferior second-class citizenship status.

The main source of this research was the Knesset's website.² The author reviewed all the laws and proposed bills initiated both by the government and by individual members of Knesset (MKs) during this time period, and selected from that group, the laws and bills that directly or indirectly affect Palestinian citizens in Israel and touch upon major areas of political, social, and economic life. These laws discriminate against Palestinians by limiting the democratic space in which they move and by expanding the Jewish sphere from which they are excluded.

The review indicates that it is impossible to strengthen the Jewish character of the state without weakening its democratic character; this impossibility results from the inherent contradiction between these two identities of the state. As a matter of course, certain laws will harm the interests of diverse groups of citizens. In the case of the laws and proposed bills under review, however, the objective is to further restrict or limit the rights of one group based on its national belonging. Sometimes the law is directly aimed at Palestinian citizens in Israel, while at other times, the law is indirect, seemingly neutral on its face and expressed in camouflaged terms. Observation of the stages through which these laws and proposed bills passed, the statements made by MKs in parliamentary debates, and the discussion surrounding them indicate a clear intention to limit the rights of the Palestinian minority in Israel and its political leadership, even to the degree of substantially harming the underlying foundation of the relationship between citizens and the state.

¹ From the opening of the Fifteenth Knesset in June 1999 to October 2002, 4,236 private members' bills were introduced. The Fifteenth Knesset passed 440 laws as compared with 274 laws passed by the Fourteenth Knesset, which served from 1996 to 1999. Of these laws, 239 were private members' bills as compared to 140 in the Fourteenth Knesset; 162 were government bills as compared to 118; and 39 were laws initiated by Knesset committees as compared to 16. See Gidon Elon and Zvi Zarhiya, "Private Legislation Runs Wild. The Citizens will Pay," *Ha'aretz*, 18 November 2002. Private members' bills are initiated by MKs, other than those who are ministers or deputy ministers, while government bills are initiated by the government. Private bills need to pass a preliminary reading and three additional readings in order to become a law. Government bills need only three readings. See also Chapter 7 and 8 of the Knesset's Rules of Procedure at: www.knesset.gov.il/main/eng/engframe.htm.

² See www.knesset.gov.il.

Some of the proposed bills discussed in this chapter were “laid on the Knesset’s table” or introduced several times, either by the same MK or by other members. The quantity and frequency with which proposed bills were submitted indicates the unwavering attitude of the political Right in Israel to further marginalize and exclude Palestinian citizens of Israel from the polity. Other laws and proposed bills surveyed in this chapter were submitted by Palestinian MKs or by MKs from the left-of-center parties, who sought to promote Palestinian minority rights in Israel. However viewed, fundamental democratic principles, such as the principle of equality, “a state of all its citizens,” or “a multi-cultural state,” are not accepted in Israel, or at least are in dispute.

Regarding Knesset resolutions that are surveyed in this chapter, special attention is paid to those that impair the political representation rights of the Palestinian minority in Israel and are directed against Palestinian MKs. These resolutions illustrate the administrative and quasi-judicial tools used by the Knesset to punish and/or silence representatives of the minority and to constrict their actions on behalf of their constituents.

This chapter includes the names of MKs and their party affiliations who introduced, supported or opposed the laws, proposed bills, and resolutions of the Knesset committees presented in this report. By noting the names of individual MKs and their political party affiliations, the author seeks to assist students of Israeli politics in analyzing the members’ and parties’ declared and undeclared political positions.

The chapter opens with background information on the Knesset and proceeds to discuss the new laws enacted under the period of review, in chronological order by date of passage. The chapter then reviews the proposed bills introduced; this section is organized thematically and discusses both bills that seek to limit rights as well as those that seek to advance the rights of the Palestinian minority in Israel. The chapter closes with an examination of various Knesset resolutions passed that restrict the political participation rights of Arab MKs.

Background: The Knesset

Role of the Knesset

The Knesset, the parliament of the State of Israel, is the legislative branch of government and has sole authority to enact laws. The Basic Law: The Knesset—1958 provides that the Knesset has 120 elected members (Section 3); that the elections in Israel are “general, national, direct, equal, secret and proportional” (Section 4); and that the Knesset serves for four years from the day that its members are elected (Section 8).

In the absence of a constitution, the Knesset is subject to basic laws that fill the constitutional void in Israel. The Knesset is the body that enacts the basic laws, pursuant to its authority as the constituent assembly. According to the Declaration of Independence of 14 May 1948, a constitution was to be drawn up by 1 October 1948. The first elections, held on 25 January 1949, were to elect the members of the constituent assembly. The constituent assembly did not draft a constitution for Israel; thus, the Knesset inherited this task. On 13 June 1950, the Knesset decided, in what came to be referred to as the “Harari resolution,” that the Knesset’s Constitution, Law and Justice Committee would prepare a draft proposal of a constitution. The constitution would be formed “chapter after chapter,” with each chapter constituting a basic law in and of itself. In this way, the basic laws, as a unit, would one day comprise the state’s constitution.³

In addition to functioning as the legislature and constituent assembly, the Knesset fills a quasi-judicial role. An example of this function is the immunity granted to MKs and the power granted to the Knesset to remove the president of the state and the state comptroller from their positions. The Knesset, through committees and the plenum, also oversees the executive branch. Finally, the Knesset also acts as elector, as when it elects the president of the state.

Arab representation in the Fifteenth Knesset

In the Fifteenth Knesset, nine Arab MKs were elected on behalf of Arab parties (including Hadash—The Democratic Front for Peace and Equality, which defines itself as an Arab-Jewish party, one of whose members of Knesset is a Jewish individual: Tamar Gozansky). The Arab MKs were the following:⁴ on

³ Amnon Rubinstein and Barak Medina, *The Constitutional Law of the State of Israel*, Vol. 1, 5th Ed. (Schocken Publishing, 1996), p. 367 [Hebrew].

⁴ The division of MKs by parties noted above reflects their composition at the end of the Fifteenth Knesset, and not at the time they were elected. There were two divisions of parties during the Fifteenth Knesset: The National Arab Party (MK Tawfik Khatib and MK Muhammad>>

behalf of the United Arab List—‘Abd al-Malek Dahamshe, Taleb El-Sana, and Hashem Mahameed; the National Arab Party—Tawfik Khatib and Muhammad Kanan; Hadash—Muhammad Barakeh and Issam Makhoul; The National Democratic Assembly (NDA)—Azmi Bishara; and the Arab Movement for Renewal (Ta’al)—Ahmad Tibi. In addition, four Arab MKs were elected on behalf of Zionist parties: Meretz—Hussniya Jabara; Likud—Ayoob Kara; and Labor—Nawaf Masalha and Saleh Tarif. The political behavior of MKs is a function of political identity and consciousness. For example, an Arab MK belonging to the Likud initiated a bill and voted in favor of other bills that infringe upon significant rights of the Palestinian minority in Israel. In addition, MK Saleh Tarif served as a minister-without-portfolio in the unity government headed by Ariel Sharon.

Seventy-five percent of Palestinian citizens of Israel voted in the elections to the Fifteenth Knesset and for prime minister in 1999. Seventy percent of these voters cast their ballots for the Arab political party lists (48 percent) and Hadash (22 percent), whereas thirty percent voted for Jewish-Zionist parties.⁵

<<Kanan) split from the United Arab List, and the Arab Movement for Renewal (MK Ahmad Tibi) separated from the National Democratic Assembly.

⁵ Asa'd Ghanem and Nadim Rouhana, "Citizenship and Parliamentary Politics of Minorities in Ethnic States: The Palestinian Citizens of Israel," 17(4) *Nationalism & Ethnic Politics* (Winter 2001), pp. 66-86.

Laws

During the period under review, the Fifteenth Knesset enacted eight laws that discriminate against the Palestinian minority in Israel in various aspects of life.

Ensuring Rejection of the Right of Return

On 1 January 2001, the Knesset passed the *Ensuring Rejection of the Right of Return Law—2001*.⁶ The law provides that refugees will not be returned to the territory of the State of Israel except upon the prior approval of an absolute majority of MKs, i.e., sixty-one members.

The law was first proposed as a private members' bill by MK Yisrael Katz (Likud). The Knesset's Constitution, Law and Justice Committee later sponsored the bill and it passed its third reading by a vote of fifty-six to twelve, with three abstentions.⁷ On its preliminary reading, sixty-six voted in favor, twenty-two against, and one member abstained.⁸ On its first reading, which was tied to a proposed no-confidence vote against the government submitted by the Arab parliamentary groups, ninety members of the Knesset voted in favor and nine against.⁹ The bill was signed by sixty-one members of Knesset.¹⁰ In the explanatory notes to the bill, the MKs wrote:

The government of Israel is opening discussions regarding the final status agreement with the Palestinians. In these discussions, the issue of the refugees of 1948 and 1967 will be raised. The purpose of the law is to prevent the government from making a decision without the Knesset's approval, or by a sporadic ordinary majority, on the return of refugees to the territory of the State of Israel.

The law states as follows:

1. In this law—

“territory of the State of Israel”—the territory located within the sovereign jurisdiction of the State of Israel.

“refugee”—a person who left the borders of the State of Israel at the time of

⁶ *Sefer Hahukim* (Laws of Israel), Booklet 1172 (10 January 2001), p. 116.

⁷ *Divrei Haknesset* (Knesset Record), Booklet 5, 170th sitting of the Fifteenth Knesset, 1 January 2001.

⁸ The 106th sitting of the Fifteenth Knesset, 17 May 2000.

⁹ The 155th sitting of the Fifteenth Knesset, 20 November 2000. See also Protocols No. 158 and No. 253 of the meetings of the Knesset Constitution, Law and Justice Committee, 26 July 2000 and 1 January 2001, respectively.

¹⁰ Proposed Bill No. 1362. The bill was laid on the table of the Knesset on 7 February 2000. It was referred to the Knesset's Constitution, Law and Justice Committee on 17 May 2000. See *Hatz'aoi Huk* (Proposed Bills), Booklet 2918, 30 October 2000, p. 2.

war and is not a national of the State of Israel, including the persons displaced in 1967 and refugees of 1948 or a member of his family.

2. Refugees shall not be returned to the territory of the State of Israel except with the approval of a majority of members of Knesset.
3. Notwithstanding the provisions of Section 2, the Minister of Interior, with the consent of the Minister of Defense and the approval of the Knesset's Constitution, Law and Justice Committee, may enact rules for the granting of approval, for humanitarian reasons only, to refugees to enter the territory of the State of Israel for the purpose of residing there.
4. The government of Israel will not make any commitment and will not enter into agreement that is inconsistent with the provisions of this law.
5. This law shall not apply to a person to whom the Law of Return—1950, applies.

On preliminary reading, held on 17 May 2000, MK Yisrael Katz (Likud), who proposed the bill, explained the motive underlying its introduction:

... The bill reflects a Zionist consensus not to allow refugees of 1948 and 1967 to return to the sovereign areas of the State of Israel... The bill... is non-partisan, Zionist, Jewish, Israeli, moral, and historically justifiable... The right of return is also the slogan of many Arab members in this Knesset, who seek the destruction of the State of Israel as a Jewish and democratic state, the destruction of the Israeli flag, the Israeli national anthem, and the Jewish character of the State of Israel... Whoever wishes to live in a democracy and in equality—will find a place with us. Whoever seeks another national identity—let him go elsewhere. The right of return, a state of all its citizens—are expressions synonymous to the wish to destroy Israel...

The debate in the plenum, preceding the vote on the second and third readings, was held on 1 January 2001. Prior to the vote, MK Amnon Rubenstein (Meretz), Chairman of the Constitution, Law, and Justice Committee, announced that his party “opposes in the strongest terms the right of return,” but also “opposes special-majority legislation of this kind,” which will bind the hands of a future government. MK Rubenstein also announced that Prime Minister Ehud Barak supports the bill.¹¹ During the debate, MK Azmi Bishara (NDA) stated that:

“This is not a liberal democracy. Whoever establishes its regime and founds it on the basis of ethnic origin only and on the daily counting of how many Arabs and how many Jews there are in the state, not only in the state but in each area of the state, is a racist, and will be a racist entity.”¹²

¹¹ Protocol No. 253, *supra* note 9, pp. 1-2.

¹² *Ibid.*, at pp. 8-9.

This law harms the Palestinian minority in Israel in various ways. First, the requirement of an absolute majority of sixty-one MKs, is always a Jewish majority, and thus, this condition reduces the ability of the Palestinian minority and its political representatives to influence important decisions regarding the form that the state will take. Second, preventing the right of return by special-majority legislation increases the alienation and exclusion of Palestinian citizens of Israel. The trauma suffered by the Palestinian people in 1948 shapes Palestinian consciousness and collective memory. The 1948 war led to many families being torn apart by borders, such that a Palestinian citizen of Israel has relatives in the Occupied Territories, Syria, Jordan, Lebanon, and elsewhere in the world. This law denies the historic injustice caused to the Palestinian people by the founding of the State of Israel, among them the Palestinian minority living in Israel. Furthermore, this law sends a message to these citizens that they must forget their aspiration that their families will return to the places from which they were uprooted.¹³ The law does leave an opening for “humanitarian reasons,” but clearly, extremely small numbers are intended, and the decision in this matter is left to the arbitrary discretion of the Minister of Interior. The law creates two separate tracks: on the one hand, Palestinian refugees are not allowed to return because they are Palestinians, and on the other hand, Jews from anywhere in the world, even those who did not live in the territory of the State of Israel in 1948, are able to immigrate to Israel pursuant to the Law of Return because they belong to the Jewish people. Palestinian refugees do not have the option of return pursuant to a law of return.¹⁴

Prohibition on Entry to “Enemy States”

On 13 March 2002, the Knesset passed the *Law Amending the Ordinance Extending the Validity of the Emergency Regulations (Foreign Travel) (No. 7)—2002*.¹⁵ The bill passed by a vote of forty-five to seventeen, with one abstention on first reading, which took place on 22 October 2001.¹⁶ This law was proposed following the trip of MK Azmi Bishara to Syria, which is defined as “an enemy state,” and his organization of trips to Syria by

¹³ Regarding the Israeli-Jewish consensus opposing the return of the refugees, see Nimer Sultany, “The Suffering and the Justice,” *Ha’aretz*, 23 November 1999.

¹⁴ Section 1 of the Law of Return—1950, provides: “Every Jew has the right to come to this country as an *oleh* [Jewish individual immigrating to Israel].” Section 4B of the law defines a “Jew” as a “person who was born of a Jewish mother or has converted to Judaism and who is not a member of another religion.” Section 2(b) grants the Minister of Interior the power to refuse to grant an *oleh* certificate if he is of the opinion that the applicant acts “against the Jewish people” or “is liable to endanger public health or state security,” or “has a criminal past that is liable to endanger public safety.” On the matter of the position of international law on the right of return, see Badil Resource Center, *The 1948 Palestinian Refugees and the Individual Right of Return: An International Law Analysis* (January 2001).

¹⁵ *Sefer Hahukim*—2002, Booklet 1836. See the debates in the Knesset’s Interior Committee held on 6 November 2001 and 5 March 2002.

Palestinian citizens of Israel to meet with relatives whom they had not seen in fifty years. Following MK Azmi Bishara's activity regarding the trips to Syria, he and two of his assistants were criminally indicted, and they are now being tried in the Magistrate Court in Natserat Illit. The legislative process on the law began shortly after MK Bishara gave a speech at a memorial ceremony for Syrian President Hafez al-Assad in Kardaha, Syria, on 10 June 2001. The relevant law in effect prior to passage of this amendment—Ordinance Extending the Validity of the Emergency Regulations (Foreign Travel)—1948¹⁷—restricted persons from leaving the country or leaving and entering certain countries without the prior approval of the Interior Minister. These states are listed in Section 2A of the Prevention of Infiltration (Offenses and Jurisdiction) Law—1954. These states are Lebanon, Syria, Egypt, Trans-Jordan, Saudi Arabia, Iraq, and Yemen. The Minister of Interior issued a general permit allowing persons to leave the country for Egypt and Jordan. If a citizen or resident of Israel enters the other countries on the list, directly or indirectly, in a manner that does not conform to the provisions of the ordinance, he is guilty of a criminal offense and subject to imprisonment for one year and a fine. However, Regulation 17(c) of the schedule to the Ordinance states that the regulations do not apply to a "person who holds a diplomatic passport or a service passport of the State of Israel." Section 10(b) of the Knesset Members (Immunity, Rights and Duties) Law—1951 provides that: "A member of Knesset leaving for abroad is entitled to receive a service passport." Thus, the prohibition on entry without a permit into the said states does not apply to MKs. As a result of the amendment to the law, which nullifies Regulation 17(c), this prohibition now also applies to MKs.¹⁸

The fact that the law was enacted following the previously mentioned case of MK Bishara and to restrict his movements is clear from the comments of MK Mossi Raz (Meretz). MK Raz made the following statements during the debate preceding the vote on second and third reading:

... I heard the Minister of Internal Security, who left for a moment, urge members of the Knesset to come in and say to them: come, the Azmi Bishara law is on now. What is actually happening here? The government was threatened because a Member of Knesset went to Syria and did what he did there, and they decided that it is now necessary to put an end to democracy in Israel, to put an end to freedom of movement of Knesset members, to put an end to the logic according to which actions must be taken, because what else can be done? We are scared of Azmi Bishara...¹⁹

¹⁶ The 236th sitting of the Fifteenth Knesset, 22 October 2001.

¹⁷ *Palestine Gazette* 23, (19 November 1948), Supp. 1, p. 45.

¹⁸ See the explanatory notes in *Hatz'aot Huk*, Booklet 3032, 24 July 2001, p. 782.

¹⁹ The 294th sitting of the Fifteenth Knesset, 13 March 2002.

On third reading, fifty-three MKs voted in favor of the bill, and thirty-five voted against it. This amendment limits the immunity of MKs, restricts their ability to act on behalf of their constituents, and encroaches on Palestinian citizens' rights of political participation (outside the mainstream).

Laws of 15 May 2002

On 15 May 2002, the Knesset passed four amendments that significantly change the rules of the democratic game in Israel and reshape parliamentary debate. These laws are intended to realign the boundaries of democracy in Israel by conforming it to the Zionist consensus. As a result, Palestinian citizens in Israel and their representatives in the Knesset find themselves outside these boundaries unless they alter their Palestinian identity and become Zionists. Such change is, of course, both impossible and undemocratic. It is impossible because the Zionist ethos is built on the denial of Palestinian-Arab identity and everything it stands for, an identity that cannot be eradicated. It is undemocratic because the essence of democracy is acceptance of the other and of the different, and the prohibition on discriminating against an individual because of his or her difference.

This series of legislative amendments began as a single piece of legislation, a private members' bill (Proposed Bill No. 2262) initiated by MK Yisrael Katz (Likud), who laid it on the Knesset's table on 30 October 2000. The bill was introduced to amend the Basic Law: The Knesset. It passed preliminary reading on 16 May 2001 by a vote of forty to nineteen, with two abstentions, and was referred to the Knesset's Constitution, Law and Justice Committee.²⁰ On 23 October 2001, the Constitution, Law and Justice Committee decided to refer the bill for first reading.²¹ On 7 November 2001, the bill passed its first reading by a majority of sixty-nine to twenty, with eight abstentions.²²

On 1 May 2002, the Constitution, Law and Justice Committee referred the amendment initiated by MK Katz, together with two similar amendments, for second and third readings.²³ MK Katz agreed to coordinate the bill with the government, which at the preliminary reading supported the bill. The Ministry of Justice drafted the bills, and the Ministerial Committee for Legislation supported them. According to the government's rules of procedure, coalition members are required to vote in favor of legislation supported by the Ministerial

²⁰ The 200th sitting of the Fifteenth Knesset, 16 May 2001.

²¹ See Protocols No. 366 and No. 367 of the meetings of the Knesset's Constitution, Law and Justice Committee, 22 October 2001 and 23 October 2001, respectively.

²² Because the bill sought to amend a basic law, more than sixty votes in favor was required. The vote on first reading was held after the Knesset plenum had voted to lift the immunity of MK Bishara (see *infra*). See the Protocol of the 244th sitting of the Fifteenth Knesset, 7 November 2001.

²³ Protocol No. 463 of the meeting of the Knesset's Constitution, Law and Justice Committee, 1 May 2002.

Committee for Legislation.²⁴

Comments made by MK Katz during the debate in the Knesset on preliminary reading shed light on the motivation and purposes underlying the bill:²⁵

.... MK [Ahmad] Tibi and his friends are like leeches clinging to the arteries of Israeli democracy, garnering strength and sucking its blood, and the law is needed to pluck them off... We must remove the Arab extremists from the Knesset and enable more moderate representatives, who accept the existence of the State of Israel as a Jewish and democratic state, to be elected in their stead... Whoever supports the Syrian army in Lebanon, the military struggle against the State of Israel—and negates the existence of the state, who takes part in the funerals of terrorists from Daboriya [a Palestinian village in Israel], who acted on behalf of Hamas to blow up Israeli buses in Haifa and Tiberias and calls them martyrs, who incites suicide acts against Jews in the struggle over the Temple Mount [al-Haram al-Şharif], like Member of Knesset ‘Abd al-Malek Dahamshe—has no place in this Knesset... Who supports Hezbollah and calls for attacks on IDF soldiers—such as Member of Knesset Azmi Bishara, has no place in this Knesset... Who supports the Islamic Jihad, the Tanzim, and [Marwan] Barghouti, and justifies their acts of murder—and calls for attacks on Israeli soldiers and civilians, such as Hashem Mahameed and Muhammad Barakeh, who sits and claps next to [Marwan] Barghouti, who calls for the murder of civilians and soldiers—has no place in this Knesset. One who serves as a collaborator of [Yasser] Arafat and calls for a violent intifada against Israeli civilians and soldiers and calls the chief of staff [Shaul Mofaz] a criminal and murderer, such as Ahmad Tibi—has no place in this Knesset... People cannot serve in the Knesset who operate against the Knesset...

MK Michael Eitan (Likud) turned to the Arab MKs during the debate on 15 May 2002 and spoke these words:²⁶

One or the other, Arab members of the Knesset, if you are loyal to the state, you have nothing to worry about, you can support this [bill] because you must safeguard the state. But if you are traitors and want to support enemy states and attempts to destroy the state, you stand up here and shout against the bill... You

²⁴ In practice, MKs belonging to the coalition do not always vote as directed by the Ministerial Committee for Legislation. The Committee is comprised of fourteen ministers and is headed by the Minister of Justice. The decision does not bind the MK who initiated the bill. Although it is an important and influential committee, few ministers attend its meetings. Also, the large number of proposed bills make it impossible for the committee to dedicate the necessary time to discuss each bill. See Gidon Elon, “At Some Meetings, I was the only One Present,” *Ha’aretz*, 29 October 2002.

²⁵ The 200th sitting of the Fifteenth Knesset, 16 May 2001.

²⁶ The 305th sitting of the Fifteenth Knesset, 15 May 2002.

are leading to a transfer. That will occur. That blood will be spilled. That will occur. And you will be responsible... And whoever stands here and prevents us from enacting this law shows that he is, he is the objective of the law. He is the one who wants, as a Member of Knesset, to incite, injure, collaborate with the enemy. Whoever is loyal to the state will support this law, and whoever betrays the state will vote against it.

MK Muhammad Barakeh (Hadash) also took part in the debate on 15 May 2002 and stated that:²⁷

Today is 15 May 2002. Today four laws that establish the Israeli apartheid state in practice were laid on the Knesset's table...²⁸ The "Nakba" [catastrophe] of the Palestinian people already occurred. But, 15 May is the "Nakba" of Israeli democracy, which was in effect declared today although it has existed for many years...

Descriptions of these four laws follow.

On 15 May 2002, the Knesset enacted the *Basic Law: The Knesset (Amendment No. 35)—2002*.²⁹ This amendment changed Section 7A of the Basic Law: The Knesset, which provided:³⁰

A list of candidates shall not participate in elections for the Knesset if its aims or actions, explicitly or implicitly, include one of the following:

1. rejection of the existence of the State of Israel as the state of the Jewish people;
2. rejection of the democratic nature of the state;
3. incitement to racism.³¹

The new section (hereinafter—the first amendment) states as follows:

In Basic Law: The Knesset, instead of Section 7A shall come:

7A. (a) A candidates' list shall not participate in elections to the Knesset and a person shall not be a candidate in elections to the Knesset if the aims or actions of the list or the actions of the person, as the case may be, explicitly or implicitly, include one of the following:

²⁷ *Ibid.*

²⁸ See *infra* regarding the fourth law, which amends the Penal Law.

²⁹ *Sefer Hahukim*—2002, Booklet 1845, p. 410. The law was initiated as a private members' bill by MK Yisrael Katz (Likud), Proposed Bill No. 2262. See *Hatz'aot Huk*, Booklet No. 3048, 5 November 2001, p. 120.

³⁰ *Sefer Hahukim*—1958, p. 69.

³¹ In the leading Supreme Court decision of *Ben Shalom*, the majority held that the minimal definition of Israel as the state of the Jewish people is based on three elements: a Jewish majority in the state, preferential treatment of Jews over other groups in returning to their state, and preferential reciprocal treatment between the state and Jews in the Diaspora. A candidates'>>

1. rejection of the existence of the State of Israel as a Jewish and democratic state.
 2. incitement to racism.
 3. support for an armed struggle of an enemy state or of a terrorist organization against the State of Israel.
- (b) A decision of the Central Elections Committee that a candidate is disqualified from running in elections requires the approval of the Supreme Court.
- (c) A candidate shall make a declaration in the matter of this section.
- (d) Details regarding the hearing in the Central Elections Committee, in the Supreme Court, and in the matter of the declaration pursuant to Subsection (c) shall be established by statute.

The first amendment made four obvious changes to Section 7(A). First, it gave additional powers to the Central Elections Committee. This political body will now have the authority, subject to Supreme Court review, to prohibit an individual and not only a political party list, from running for the Knesset. Second, the earlier statute referred to rejection of the existence of the State of Israel “as the state of the Jewish people,” whereas the new amendment speaks about a “Jewish and democratic state.” Thus, the first amendment unites two sections from the earlier statute into one section. Third, a new basis for disqualification is added: Support for the armed struggle of an enemy state (even if not considered terrorist) or of a terrorist organization against the State of Israel. Fourth, the candidate must make a declaration in this matter (the text of this declaration is set forth in the third amendment, presented below).

The bill passed its third reading by a vote of seventy-eight to seventeen, with two abstentions (the vote was declared a vote of confidence or no-confidence in the government, i.e., whoever supports the bill is deemed to support the government).

Following passage of the first amendment, the Knesset passed a bill proposed by the Knesset’s Constitution, Law and Justice Committee, which became the *Political Parties (Amendment No. 13) Law—2002*. This law is

<<list that rejects these elements is prevented from participating in elections. The majority decision further held that a list that favors repeal of the Law of Return must be disqualified. The justices in the minority held that a list calling for total equality between Arabs and Jews, not only on a personal basis, but also on a national basis, as a matter of course does not recognize the determination that the State of Israel is the state of the Jewish people. Election Appeal 2/88, *Ben Shalom v. Knesset Elections Committee*, Supr. Ct. Rpt. 43 (4) 221. Regarding Section 7A(1), Prof. David Kretzmer (Faculty of Law, Hebrew University) writes: “... on the decidedly fundamental level of identification and belonging there cannot be total equality between Arab and Jew in Israel. The state is the state of the Jews, both those presently resident in the country as well as those resident abroad. Even if the Arabs have equal rights on all other levels the implication is abundantly clear: Israel is not *their* state” [emphasis in original]. David Kretzmer, *The Legal Status of the Arabs in Israel* (Westview Press, 1990), p. 31.

similar to the previously mentioned amendment and changed a similar clause. The original law established identical grounds to those regarding the prohibition on candidates' lists from competing in Knesset elections.³² This time, however, as regards to the registration of parties, the amendment added another reason for disqualification. The new clause, Section 5 (2A), states that: "support for an armed struggle of an enemy state or of a terrorist organization against the State of Israel" is grounds for prohibiting registration of the list as a party pursuant to the law.³³

The explanatory notes to the bill state, in part:³⁴

Section 5 of the Political Parties Law—1992 (hereafter—the Law) involves the prohibition on participation of a candidates' list in elections to the Knesset, the reason being that a party is founded and registered to advance state or social interests by means of representation in the Knesset (see Section 1 of the Law in the definition "party"). It is proposed, therefore, that there be uniformity between the provision of Section 5 of the Law and the provision of Section 7A of the Basic Law: The Knesset, whereby the same objections disqualifying a candidates' list from competing in elections to the Knesset also apply to registration of a party. It is proposed that support for armed struggle against the State of Israel be an additional basis for prohibiting the registration of a party.

The bill passed its third reading by a vote of seventy-eight to fourteen, with five abstentions.

These laws restrict the freedom of citizens to be represented and to compete in elections. The basis for the restrictions is the political opinions and worldview of groups and individuals. Its clear effect is the further limitation on the political rights of Palestinian citizens of Israel. In terms of statutory interpretation, the law fails to define terms such as "armed struggle," "terrorist organization," and "implicitly." In his comments to the Constitution, Law and Justice Committee on 24 July 2001, Prof. Claude Klein (Faculty of Law, Hebrew University) mentioned that the definition of "terrorist organization," according to the Prevention of Terrorism Ordinance—1948, is in his words, "dangerous," because a terrorist organization is defined by the government.³⁵ Therefore, the government official empowered to define what is a terrorist organization can prevent one person or another from taking part in the elections.

At the same hearing, Prof. Mordechai Kremnitzer (Faculty of Law, Hebrew University) said that, pursuant to this law, a list that supports terror against

³² *Sefer Hahukim*—1992, p. 190.

³³ *Sefer Hahukim*—2002, Booklet 1845, p. 410.

³⁴ *Hatz'aot Huk*, Booklet 3048, 5 November 2001, p. 121.

³⁵ Protocol No. 346 of the meeting of the Knesset's Constitution, Law and Justice Committee, 24 July 2001.

Palestinians or against Palestinian citizens in Israel is not prohibited or legally qualifies as a political list. In his comments to the committee, Prof. Eyal Benvenisti (Faculty of Law, Tel Aviv University) said that disqualification of an individual candidate infringes the right of a person to be elected, which is enshrined in Section 6 of the Basic Law: The Knesset.³⁶ According to him, a person has human rights, while a candidates' list as a list does not have human rights. Therefore, a candidates' list may be disqualified by an elections committee, which is a political entity. A political committee is not allowed to restrict the rights of an individual. Prof. Benvenisti added that he checked the practice and laws in other countries and did not find a precedent in a democratic state that forbids a person to be elected because of his aims or actions. Dr. Yaffa Zilbershitz (Faculty of Law, Bar-Ilan University) stated in her comments to the Knesset's Constitution, Law and Justice Committee on 30 April 2002, that disqualification of an individual candidate would make the elections system more personal. Parties generally submit lists of 120 candidates (pursuant to Section 57(a) of the Knesset and Prime Minister Elections Law [Consolidated Version]—1969), so there will be a flood of attempts to disqualify individuals to toad the opposition politically and for election propaganda.³⁷ At the same hearing, Prof. David Kretzmer (Faculty of Law, Hebrew University) said that the presence of the word “implicitly” in the original clause and the addition of the grounds for disqualification of “support for armed struggle” creates a situation in which some persons will attribute expression of a particular opinion as implied support for all kinds of other things. Therefore, he suggested that the word “implicitly” be struck from the bill.

On 15 May 2002, the Knesset also passed the *Knesset and Prime Minister Elections Law (Amendment No. 46)—2002*.³⁸ The amendment (hereinafter—the third amendment) states:

1. In the Knesset and Prime Minister Elections Law [Consolidated Version]—1969,³⁹ (hereinafter—the principal law), in Section 57, after

³⁶ Section 6(a) of the Basic Law: The Knesset states that: “Every Israel national who on the day of the admission of a candidates' list containing his name is twenty-one years of age or over shall have the right to be elected to the Knesset, unless a court has deprived him of that right by virtue of any Law or he has been sentenced to a penalty of actual imprisonment for a term of three months or more and on the day of submission of the candidates' list, seven years have not passed since he completed serving his prison sentence, unless the Chairman of the Central Elections Committee decided that the offense for which he was convicted, under the relevant circumstances, was not one of moral turpitude.”

³⁷ Protocol No. 461 of the meeting of the Knesset's Constitution, Law and Justice Committee, 30 April 2002.

³⁸ *Sefer Hahukim*—2002, Booklet 1845, p. 411. The law was initiated as a bill proposed by the Knesset's Constitution, Law and Justice Committee. *Hatz'aot Huk*, Booklet 3048, p. 122, 5 November 2002.

³⁹ *Sefer Hahukim*—1969, p. 103.

Subsection (i) will come:⁴⁰

(k) In the said letter of consent referred to in subsection (i), the candidate will make this declaration: "I pledge allegiance to the State of Israel and refrain from acting contrary to the principles of section 7A of the Basic Law: The Knesset."

The significance of this section is that it requires the Palestinian representative to internalize the inferiority and discrimination inherent in the law and to accept it. The promise to refrain from acting against the principles of Section 7A of the Basic Law: The Knesset means, among other things, ceasing to act to change the nature of the state as a Jewish state even if the actions are done legally through political means. Also, the candidate is forbidden to support the armed struggle of an Arab state that is defined by Israeli law as an "enemy state" or of an entity defined as a "terrorist organization" against the State of Israel. This law, together with the other laws mentioned, reduces the effectiveness of the political participation of Palestinian citizens in Israel and the political parties that represent the community. The incentive for political involvement comes from an ability to influence decision-making in the state and to change the social order. Rather than provide an incentive for participation, these amendments require Palestinian citizens in Israel to join the Zionist consensus, which rejects Palestinian identity and does not accept citizens as they are.

The third amendment continues and states:

2. After section 63 of the principal law shall come:⁴¹

- (a) A request to determine that a candidate is prohibited from participating in the Knesset elections pursuant to Section 7A of the Basic Law: The Knesset shall be signed by one-third of the members of the Central [Elections] Committee and submitted to the Central [Elections] Committee no later than seven days from the registration of the candidates' list that includes the name of the candidate; decision of the committee pursuant to this subsection shall be given no later than the twenty-fifth day preceding election day.⁴²
- (b) Where the Central [Elections] Committee decided that a candidate is prohibited from participating in the Knesset elections pursuant to section

⁴⁰ Section 57(i) of the law states: "A candidates' list shall be submitted to the Central Elections Committee, not later than the 47th day before election day, accompanied by the consent of each of the candidates in writing."

⁴¹ Section 63 of the law states: "A candidates' list that is not prohibited from taking part in elections to the Knesset in accordance with Section 7A of the Basic Law: The Knesset and was properly submitted... shall be approved by the Central Elections Committee, which shall notify the representative of the list and his deputy of the approval not later than the 25th day before election day."

⁴² MK Ophir Pines-Paz (Labor), Chairman of the Constitution, Law and Justice Committee, said at the Committee's hearing of 30 April 2002: "Incidentally, it is not so complicated to obtain the>>

7A of the Basic Law: The Knesset, it shall so notify the candidate and immediately forward the decision and its reasons to the Supreme Court for approval.

- (c) Where the Supreme Court approved the decision, the Central [Elections] Committee shall strike the name of the candidate from the candidates' list.
 - (d) Where the Central [Elections] Committee denied the request pursuant to subsection (a), the provisions of section 64(a1) shall apply, *mutatis mutandis*.
 - (e) The provisions of section 64(b) and (c), *mutatis mutandis*, shall apply to the Supreme Court's Rules of Procedure.
3. In section 64(a) of the principal law, after "one of the names of the candidates" shall come "that are not pursuant to section 63A."

These sections make it possible, unlike in the past, to delete the name of a candidate from a candidates' list, as distinguished from disqualification of an entire list. This option enables the authorities to isolate political leaders whom they believe are "extremists" and "inciters," and to deter others.

The bill passed into law on third reading by a vote of seventy-six to seventeen, with four abstentions.

After the Knesset voted on the third amendment, MK Yisrael Katz (Likud), who initiated the legislation, took the podium and said the following:

The unending statements of the Arab members of Knesset in this house, not all, but too many... and their unrestricted support of all kinds of murderous terror led to this legislation. Whoever is not willing to respect our rules and the existence of the State of Israel as a Jewish and democratic state, which opposes terror and racism, should leave. The door is open. Whoever supports terror and wants to be a member of parliament, let him go to Gaza, Ramallah, Damascus, and Beirut. Whoever remains here must respect the rules...

Arab MKs described these amendments as "political transfer of political opinions" and "anti-democratic laws." The significance of the amendments, therefore, was that Israel was not a democratic state, but a democracy for Jews only.⁴³

Further, on 15 May 2002, the Knesset passed by a vote of fifty-five to thirty-six with four abstentions, the *Penal (Amendment No. 66)*

<<support of one-third of the members of the Elections Committee. I was deputy chairman of the Central Elections Committee. One-third of the members of this elections committee is very easy to arrange, for if Labor or Likud join in, you have one-third of the members." See Protocol No. 461 of the meeting of the Knesset's Constitution, Law and Justice Committee, 30 April 2002.

⁴³ Debate in the Knesset's plenum on 15 May 2002 on second and third reading. *Divrei Haknesset*, Booklet 4, p. 690.

*Law—2002.*⁴⁴ The amendment (hereinafter—the fourth amendment) states:

144D2. (a) A person who publishes a call to commit an act of violence or terror, or words in praise, support, or encouragement of an act of violence or terror, supports, or identifies with it (in this section—inciting publication), and according to the plan of the publication of the incitement and the circumstances in which they are published, entail a substantial possibility that it will bring about an act of violence or terror, shall be subject to imprisonment for five years.

(b) In this section, “act of violence or terror” means an offense that causes bodily injury to a person or places a person in life-threatening danger or in danger of serious injury. (c) Publication of an accurate and fair report on a publication that is prohibited by the provisions of subsections (a) and (b) shall not be an offense pursuant to this section.

144D3. A person who possesses, for purposes of distribution, a publication that is prohibited by Section 144D2 is subject to imprisonment for one year, and the publication shall be forfeited.

This section is intended to restrict the freedom of expression of Palestinian citizens in Israel, among them their political representatives, regarding support for the Palestinian intifada or the Palestinian struggle to be free from the Israeli occupation and to attain self-determination. In adopting the fourth amendment, the Knesset rejected the option raised by MK Zahava Gal-On (Meretz) that required “near certainty” that the publication will lead to the performance of an act of violence or terror.⁴⁵ The Knesset chose the option that more easily facilitates criminal prosecution, and as a result, drastically impairs freedom of expression. The fourth amendment requires only a “substantial possibility” that the publication will lead to commission of an act of violence or terror. The fourth amendment was enacted in response to the decision of the Supreme Court in the matter of the journalist Muhammad Jabarin.⁴⁶ Further, this amendment was enacted following the difficulty entailed in prosecuting Arab MKs for statements that were perceived as violent or encouraging violence, and in light of the mass protests of October 2000, which were perceived by Israeli authorities as civil insurrection and an expression of the “growing extremism” of the minority that was undergoing a process of “Palestinization.”⁴⁷

⁴⁴ *Sefer Hahukim*, Booklet 1845, p. 411. The proposed bill was published in *Hatz'aot Huk*, Booklet 3048, 5 November 2001, p. 120.

⁴⁵ Proposed Bill No. 3303, 14 January 2002.

⁴⁶ *Crim. Add. Hear. 8613/96, Muhammad Yusef Jabarin v. State of Israel*, Supr. Ct. Rpt. 54 (5) 193. Jabarin, a journalist, was charged with supporting a terrorist organization. The charges were based on three articles that he wrote. In interpreting Section 4(a) of the Prevention of Terrorism Ordinance, 1948, the Supreme Court ruled that application of the section is limited to incitement to commit acts of violence by a terrorist organization, within its meaning in the ordinance, while incitement by individuals, who are not agents of a terrorist organization, is not prohibited by the ordinance.

Cuts of the Children's Allotment

On 5 June 2002, the Knesset passed the *Emergency Economic Plan (Legislative Amendments to Achieve the Budget's Goals and the Economic Policy for the 2002-2003 Fiscal Year) Law—2002*. The law imposes drastic cuts of the children's allotment paid by the National Insurance Institute to families not holding the "entitling service." As set forth by the law, the "entitling service" which entitles the holder to payment of a higher children's allotment, is service in the security forces. Thus, the law intentionally discriminates against Arab children in Israel: Arab children in almost all cases, as compared with Jewish children, do not come within this category, as their parents or other family members did not serve in the security forces enumerated in the law, and also are not required to perform such service pursuant to the Military Service Law [Consolidated Version]—1986. The harm to Arab children is extremely grave because they belong to the weakest socio-economic sector.

Section 3(4) of the law amends section 68(a) of the National Insurance Law [Consolidated Version]—1995, which states:

68(a) the monthly children's allotment will be—

1. according to allotment-point value—for each of the first two children among the parent's children;
2. according to allotment-point value as set forth in Schedule D—for each child in excess of the first two children among the parent's children;

For this purpose, "allotment point" has the meaning given it in Section 33A of the Income Tax Ordinance.

The new law states:

(4) In Section 68(a)—

1. Instead of paragraphs (1) and (2) shall come:

- (a) According to 0.96 allotment-point value—for each of the first two children among the children of a parent holding the entitling service; however, during

⁴⁷ Following the entry of then-MK Ariel Sharon (Likud), head of the opposition at that time, on 28 September 2000 to the expanse in front of al-Haram al-Sharif [the Temple Mount], al-Aqsa intifada broke out. Palestinian citizens in Israel sought to express their solidarity with the struggle of the Palestinian people in the Occupied Territories against the military oppression and use of excessive force by the Israeli army. The High Follow-up Committee for the Arab Citizens in Israel declared a general strike and demonstrations for 1 October 2000. As a result of police violence, including sniper fire and the use of live ammunition, a total of twelve citizens and another Palestinian were killed on the 1st, 2nd, 3rd, and 8th of October 2000, and hundreds more were injured. The police also arrested hundreds of Palestinian citizens of Israel both during and after the events. Following the mass protests in October 2000, then-Prime Minister Ehud Barak declared the establishment of a Committee of Examination, which lacked any substantial powers. Following public pressure, and in light of the coming elections, Barak ordered the establishment of an official Commission of Inquiry headed by Supreme Court Justice Theodor Or (hence the reference to the Or Commission). For further details, see 3 *Adalah's Review* (2002).

- the determining period, the allotment shall be provided for each of the first two children as stated on the basis of 0.85 allotment-point value;
- (b) According to 0.77 allotment-point value—for each of the first two children among the children of a parent holding the entitling service; however, during the determining period, the allotment shall be provided for each of the first two children as stated on the basis of 0.68 allotment-point value;...
2. After the definition “allotment point” shall come:
- “holder of entitling service”—a parent who, whose spouse, or whose son or daughter, or whose spouse’s son and daughter served in entitling service - ...
- “entitling service”—one of the following:
- (a) regular service in the Israel Defense Forces, the Border Police, other units, the Israel Police Force...;
- (b) national service as stated in clause 3(b) in the definition “child” in section 238;
- (c) ...
- “the determining period”—the period from 21 Sivan 5762 (1 June 2002) to 6 Tevet 5764 (31 December 2003).

This new law followed a long list of cuts to the children’s allotment during the prior six-month period. In December 2001, it was decided that the children’s allotment would not be revised in accordance with the average wage in January 2002. In February 2002, it was decided to cut the children’s allotment by twelve percent. In April 2002, it was decided that the children’s allotment would not be revised in accordance with the average wage in January 2003, meaning that, in general, the children’s allotment would be cut by four percent and that the children’s allotment of a parent who did not serve in the army would be cut by an additional twenty percent.⁴⁸ These decisions would affect all citizens, except for the last and most significant decision—the cut of an additional twenty percent in the allotment, which was directed against Palestinian citizens in Israel, the ultra-orthodox, and new immigrants. However, a way was found to compensate the Jewish families—the ultra-orthodox and new immigrants. The definition of “holder of entitling service” was broadened such that it was sufficient if one of the family members (parent, spouse, son or daughter of either of them) served in the army, police force, or national service. This expansion reduced the group of persons among the ultra-orthodox and new immigrants who were not entitled to the benefit. Also, the new immigrants were compensated by means of a larger allotment from the Jewish Agency; the ultra-orthodox, who were studying in yeshivas, received larger grants from the Ministry of Religious Affairs; and families under the care of the Ministry of

⁴⁸ Shlomo Swirski, *Black Year* (Adva Center, September 2002), p. 8 [Hebrew].

Labor and Social Affairs received increased support from the state treasury.⁴⁹

The law was adopted by a vote of seventy-four to twenty-eight.⁵⁰ A number of Palestinian MKs and MKs from the Jewish Left said that the law is a law of apartheid. For example, MK Mossi Raz (Meretz) said at the debate preceding the vote on second and third reading of the bill, held on 5 June 2002:⁵¹

But this plan is bad first of all because it leads Israel through the gates of apartheid. It brings us to discrimination based on blood. We heard the disputes today and yesterday in the committee that prepared the budget, how to organize this discrimination so that it does not discriminate against the ultra-orthodox, that it discriminate against Arabs... this plan is only intended to further the goal of hatred of Arabs...

MK Binyamin Elon (National Union—Yisrael Beiteinu) exposed the considerations underlying the discrimination in allotments:

... Am I ashamed to say that I want to encourage [Jewish births] in the sole Jewish state in the world, after the Holocaust, after we lost six million Jews, after we lived under the danger of extermination? Is it a disgrace to say that I want to encourage Jewish births in this state? There are legal problems? So we will draft it in a manner that it will not have legal problems. We will enshrine this with legislative sanction, with the approval of the attorney general, certainly, and we will say that we support everyone who was in the army. Why be ashamed? What is happening with us? What is this political hypocrisy?⁵²

Following these comments, MK Azmi Bishara (NDA) said:

... and I think that what is happening here is not economics. This is ideology, and this is very dangerous. These are not cuts, this is not policy, this is not growth, and this is not even economic recovery. What is happening here is racist political ideology...⁵³

At first, the Supreme Court refused a request by human rights organizations and various MKs to issue a temporary injunction against the implementation of the law.⁵⁴ However, on 13 October 2002, the Supreme Court reversed its prior decision and issued an order temporarily enjoining implementation of the law

⁴⁹ Shlomo Swirski, *Adva Center Critique of 'Operation Economic Defensive Shield'* (28 April 2002). See www.adva.org/budget2002eds.html. The amendment was published in *Sefer Hahukim*—2002, Booklet 1850, 16 June 2002, p. 428; The proposed bill was published in *Hatz'aot Huk*, Booklet 3115, 21 May 2002, p. 534.

⁵⁰ The 314th sitting of the Fifteenth Knesset, 6 June 2002.

⁵¹ *Divrei Haknesset*, Booklet 27, pp. 6-7.

⁵² *Ibid.*, p. 11.

⁵³ *Ibid.*, p. 26.

⁵⁴ H.C. 4822/02, *The National Committee of Arab Mayors and Adalah v. Avraham Burg, Speaker of the Knesset, et. al.* (pending).

for a period of one month. It should be mentioned that implementation of the law, which was intended to take effect in July 2002, was postponed prior to the Supreme Court's freeze on the cut in allotments: The state had not made the arrangements necessary to implement it, and disparities were revealed between the estimate supplied by the army and the estimate supplied by the National Insurance Institute regarding the number of recipients of the allotments who did not serve in the army. Thus, the cut had been frozen in any event. Hearing on the petitions filed by the human rights organizations and the MKs was transferred to an expanded panel of thirteen justices (in place of the ordinary three-justice panel that hears petitions of this kind).⁵⁵ The Supreme Court has not yet issued a final ruling on the petitions.

"Bishara Law"

On 22 July 2002, the Knesset passed the *Knesset Members (Immunity, Rights and Duties) (Amendment No. 29) Law—2002*.⁵⁶ Preceding passage of the amendment, Section 1(a) of the Knesset Members (Immunity, Rights and Duties) Law—1951, provided:⁵⁷

A member of the Knesset shall bear no criminal or civil responsibility, and shall be immune from any legal proceeding, in respect of a vote, an oral or written expression of opinion or any other act, in or outside the Knesset, if such vote, expression of opinion or act pertains to or is directed towards the carrying out of his mandate as a member of the Knesset.

The amendment added the following section:

(a1) For the avoidance of doubt, an act including statements, that are not incidental, of a member of Knesset that include one of the following, are not deemed, for the purpose of this section, an expression of opinion or an act pertaining to or directed towards the carrying out of his mandate as a member of the Knesset:

1. rejection of the existence of the State of Israel as the state of the Jewish people;
2. rejection of the democratic nature of the state;
3. incitement to racism because of color or race or national-ethnic origin;
4. support for the armed struggle of an enemy state or acts of terror against the State of Israel or against Jews or Arabs because they are Jews or Arabs, in Israel or abroad.

This section further diminishes the political rights of Palestinian citizens of Israel by limiting the speech rights of their political leaders. This section was

⁵⁵ *Ha'aretz*, 14 October 2002. See also *Yediot Aharonot*, 14 October 2002.

⁵⁶ *Sefer Hahukim*—2002, p. 416. MKs Eliezer Cohen, Michael Nudelman, Zvi Hendel (all National Union—Yisrael Beiteinu), and Nissim Zeev (Shas) initiated the law.

⁵⁷ *Sefer Hahukim*—1951, p. 228.

also enacted in response to the statements made by MK Azmi Bishara (NDA), who represents the political stream that is challenging the definition of the state as a Jewish state by proposing the alternative definition of "state of all its citizens." MK Bishara gave two political speeches, in which he praised the Lebanese and Palestinian resistance to the Israeli occupation. These two political speeches led to the lifting of his immunity by the Knesset for the purpose of filing an indictment against him charging that he violated the Prevention of Terrorism Ordinance—1948.⁵⁸ For this reason, this law also came to be known as the "Bishara law."⁵⁹

Henceforth, the political representatives of the Palestinian minority in Israel may be prohibited from attempting to change the definition of the state by lawful means. Furthermore, the new statute prohibits not only support of "terror," but also forbids support for armed struggle as well as support for acts of "terror" that are not committed by a "terrorist organization." As a result, the statute may prevent Palestinian citizens of Israel from expressing their solidarity with and support for the armed struggle of Arab states, such as Syria or Lebanon, that are defined as "enemy states" by law, but are not understood as such in the eyes of Palestinian citizens in Israel. Also, the statute may prevent expression of support for the intifada and the struggle for freedom and independence of the Palestinian people, of which Arab citizens in Israel are an integral part, because Israel defines this struggle as acts of terror. These prohibitions are inconsistent with the principles of international law which at times allows the use of force.⁶⁰ Furthermore, this statute contains the term "state of the Jewish people" rather than the term used in other statutes: a "Jewish and democratic state."

During the debate on the first reading of the proposed bill,⁶¹ Minister Dan Meridor (Center) was surprised, despite the support for the bill by the government in which he was a member, that immunity was to be lifted for comments that, by statute, do not constitute a criminal offense or even a civil wrong (rejection of the existence of the state as the state of the Jewish people and rejection of the democratic nature of the state).⁶² Thus, the lifting of immunity in this case is meaningless because a person cannot be prosecuted for an act that is not defined by statute as an offense. As regards supporting a terrorist organization, Meridor wondered why only support for a terrorist organization acting against the State of Israel was mentioned in the bill, while in the case of support for a terrorist organization that does not act against Israel

⁵⁸ See excerpts from these speeches *infra*.

⁵⁹ *Ha'aretz*, 23 July 2002.

⁶⁰ Christopher Quaye, *Liberation Struggles in International Law* (Temple University Press, 1991).

⁶¹ *Hatz'ot Huk*, Booklet 3066.

⁶² *Divrei Haknesset*, Booklet 16, pp. 3443-3444, 29 January 2002.

(such as a Jewish terrorist organization), immunity applies. This distinction, Meridor believed, was improper.

The bill passed its first reading by a vote of sixteen to fifteen, and on third reading, by a vote of thirty-seven to thirty-four.⁶³ During the Knesset debate, MK Binyamin Elon (National Union—Yisrael Beiteinu) made the following comments:

Today we are about to vote on one of the most important laws... I think that it is perfectly clear that Israeli citizens have had enough with the cynical exploitation, when here on this podium members of the Knesset stand and take advantage of this podium to support the armed struggle of an enemy state, or support terror organizations. As recently as last week, a Member of Knesset expressed [such] support. I will not mention his name so as not to increase his rating among his voters. He is one of the Knesset members who supports terrorist activity in Judea, Samaria, and Gaza. This cannot be allowed... This is non-partisan, both on the Right and on the Left. Every Member of Knesset here will testify that when he comes to some lecture, he is told: "What are you doing with these Members of Knesset, whether it is Member of Knesset Azmi Bishara, whether it is Member of Knesset [Ahmad] Tibi, and whether it is others who incite from this podium? What, you are unable to do something about it?" This is the question that is now asked of Knesset members. Thus, we must show that we are not helpless... The only Jewish state of the Jewish people is allowed to enact laws like the Jewish Agency, like the Jewish National Fund, like the Law of Return. Here the law returns to this thing. That is, a Member of Knesset who says, "No, this is not the state of the Jewish people, this is the state of all its citizens," will not have immunity.

In the debate, MK Nissim Zeev (Shas), one of the initiators of the bill, said to MK Muhammad Barakeh (Hadash) in response to an objection that he submitted to the proposed bill: "The time has come to put an end to your parliamentary terror here."

⁶³ The 333rd sitting of the Fifteenth Knesset, 22 July 2002.

Proposed bills

Proposed bills directed against the Palestinian minority in Israel

Proposed bills regarding citizenship

During the period under review, five different bills were introduced by right-wing members of Knesset from the National Union—Yisrael Beitenu, Likud and Herut political parties that aimed to place severe restrictions on the citizenship rights of Palestinian citizens of Israel.

On 23 July 2001, MK Eliezer Cohen (National Union—Yisrael Beitenu) laid on the Knesset's table *Proposed Nationality (Amendment—Limitation of Nationality of Spouse) Law—2001*.⁶⁴ The bill establishes stricter criteria than those provided in the Nationality Law—1952, regarding acquisition of citizenship by marriage and naturalization.⁶⁵

Section 5 of the Nationality Law—1952, states (the changes that the bill seeks to make to the law appear in italics):

- (a) A person of full age, not being an Israel national, may obtain Israel nationality by naturalization if—
 - 1. he is in Israel; and
 - 2. he has been in Israel for three years out of five years preceding the day of the submission of his application, *provided that his stay in Israel was made pursuant to a resident certificate or permit within the meaning of the Entry into Israel Law—1952*; and
 - 3. he is entitled to reside in Israel permanently; and
 - 4. he has settled, or intends to settle in Israel; and
 - 5. he has some knowledge of the Hebrew language; and
 - 6. he has renounced his prior nationality or has proved that he will cease to be a foreign national upon becoming an Israeli national.
- (b) Where a person has applied for naturalization, and he meets the requirements of subsection (a), the Minister of Interior, if he thinks fit to do so, shall grant him Israeli nationality by the issue of a certificate of naturalization.
- (c) Prior to the grant of nationality, the applicant shall make the following declaration:

⁶⁴ Proposed Bill No. 2861. The official translation of the Nationality Law—1952 uses the term “nationality” rather than “citizenship.” However, it should be noted that this law and all of the proposed bills discussed in this section relate to the acquisition or revocation of citizenship status.

⁶⁵ *Sefer Hahukim*—1952, p. 146.

“I declare that I will be a loyal national of the State of Israel.”

(d) Nationality is acquired on the day of the declaration.

Section 6 of the law provides a list of the persons exempted from the naturalization requirements enumerated above. The amendment adds a subsection stating that, “marriage to an Israel national shall not constitute the granting of exemption.” Section 7 of the law states:

The spouse of a person who is an Israel national or has applied for Israel nationality and meets or is exempt from the requirements of Section 5(a) may obtain Israel nationality by naturalization even if he or she does not meet the requirements of Section 5(a).

The proposed bill would delete the end (“even if he or she does not meet the requirements of Section 5(a)”) and replace it with the following:

Provided that—

1. at least two years passed from the day he was married that preceded the day of submission of his application;
2. he was in Israel for one of the two years preceding the day of submission of his request;
3. he is entitled to reside in Israel permanently;
4. he has settled, or intends to settle, in Israel;
5. he has some knowledge of the Hebrew language;
6. he has renounced his prior nationality or has proved that he will cease to be a foreign national upon becoming an Israel national.

The proposed bill would make the following addition to Section 7:

Where a person who requests naturalization meets the conditions set forth in Section 7, the Minister of Interior, if he thinks fit to do so, shall grant him Israel nationality by providing a certificate of nationality.

That is, even following the institution of stricter requirements, the Minister of Interior retains broad discretion in granting or refusing to grant citizenship. The explanatory notes to the proposed bill state:

To prevent misuse of Israel’s liberal policy on the right granted to a husband and wife to acquire nationality based on their marriage, it is proposed to set conditions for the acquisition of nationality. It is also proposed that the minister establish an annual quota on the granting of nationality not made pursuant to the Law of Return.

Therefore, the proposed bill is intended to prevent Palestinians from the Occupied Territories who are married to Palestinian citizens of Israel from

acquiring Israeli citizenship. The Israeli authorities perceive this situation as the “creeping realization of the right of return.”

MKs Zvi Hendel, Binyamin Elon, and Eliezer Cohen (all National Union—Yisrael Beitenu) laid on the Knesset’s table the *Proposed Nationality (Revocation of Nationality of Husband and Wife) Law—2001*.⁶⁶ The bill seeks to prevent acquisition of citizenship by marriage, and gives the Ministry of Interior discretion in granting citizenship in such cases. The aim of the bill, which passed a preliminary reading by a vote of twenty-two to twelve and received the government’s support, is to discourage Palestinian citizens of Israel from marrying non-Israeli nationals. The bill is directed against Palestinian citizens in Israel and discriminates against them.⁶⁷ The proposed bill was passed by the Knesset’s Internal Affairs and Environment Committee on first reading by a vote of three to one.⁶⁸

On 8 July 2002, MK Avraham Hirschson (Likud) laid on the Knesset’s table *Proposed Nationality (Revocation of Nationality of Persons Involved in Terrorist Activity) Law—2002*.⁶⁹ The bill seeks to amend Section 11 of the Nationality Law—1952, which grants the Minister of Interior the power to revoke the citizenship of a national, by providing an additional basis for revocation of citizenship. The law currently reads as follows:

11. Annulment of nationality

- (a) An Israel national who leaves Israel illegally for one of the states mentioned in Section 2A of the Prevention of Infiltration (Offenses and Jurisdiction) Law—1954, or acquires the nationality of one of those states shall be deemed to have renounced his Israel nationality, which shall terminate with effect from the date of his leaving Israel. The termination of the Israel nationality of a person under this subsection shall entail termination of the Israel nationality of his minor child not being a resident of Israel.
- (b) The Minister of Interior may terminate the Israel nationality of a person who has done an act constituting a breach of allegiance to the State of Israel.
- (c) The Minister of Interior may terminate the Israel nationality of a person if it has been proved to his satisfaction that such nationality was acquired on the basis of false particulars, and he may prescribe that the termination of nationality shall also apply to a minor child of that person.
- (d) Termination of Israel nationality under subsection (b) or (c) shall be by notice of the Minister of Interior and shall be effective from the date prescribed in the notice.

⁶⁶ Proposed Bill No. 3000.

⁶⁷ *Divrei Haknesset*, Booklet 16, p. 3512, 3513 (comments of MK Tamar Gozansky (Hadash)), The 280th sitting of the Fifteenth Knesset, 30 January 02.

⁶⁸ Protocols No. 393 and No. 403 of the meetings of the Knesset’s Internal Affairs and Environment Committee, 12 March 2002 and 13 May 2002, respectively.

⁶⁹ Proposed Bill No. 3971.

The proposed amendment adds the following section:

(c1) The Minister of Interior shall revoke the Israel nationality of a person when he—

1. committed an offense pursuant to sections 2, 3, or 4 of the Prevention of Terrorism Ordinance—1948;
2. committed an offense pursuant to sections 144D2 or 144D3 of the Penal Law—1977 (hereinafter—the Penal Law);
3. gives money or valuables for the benefit of a person who commits violent acts or terror (hereinafter—terrorist); in this section, “violent acts or terror” has the same meaning as in section 144D2 of the Penal Law;
4. makes a place available to a person for use by a terrorist, on a permanent basis or at a certain time, as a place of an act, meeting, propaganda, or storage;
5. makes an object available to a person for use by a terrorist in the execution of an act on behalf of the organization.

The explanatory notes to the bill state:

The war against terror within Israel in recent years revealed that terror is also aided by Israeli citizens, and there is no difference if the aid is in the form of money or logistics, or if it is provided before or after the terror.

As inconceivable as it is, the statutes do not relate to the nationality of such persons, and the law should provide the duty to revoke the nationality. This revocation is liable to have various statutory effects, including the right to deport a national of this kind from Israel.

On 24 July 2002, MK Ayoob Kara (Likud) laid on the Knesset’s table the *Proposed Nationality (Amendment—Revocation of Nationality) Law—2002*.⁷⁰ The bill comes to amend Section 11 of the Nationality Law by adding the following:

The Minister of Interior may terminate the nationality of a person who was convicted by a final judgment of an offense pursuant to subsections (d), (e), and (f) of Section 4 of the Prevention of Terrorism Ordinance—1948.

The explanatory notes to the proposed bill state, in part:

During the recent period, we have been witness to the phenomenon of Israeli nationals directly and indirectly aiding terrorist attackers. It is proposed that the law provide for the revocation of the Israel nationality of a person convicted of the aforementioned offenses.

Although the last two amendments used the wording “Israel national,” it is

⁷⁰ Proposed Bill No. 4072.

clear that they refer to the Palestinian citizens of Israel. After al-Aqsa intifada began, the Israeli media increasingly reported on the involvement of Palestinian citizens in Israel in the intifada. The media coverage has been disproportionate as to the number and severity of the acts attributed to the suspects. Often, the media prejudices these suspects and creates a fervent atmosphere against them, as well as suspicion against the entire Palestinian population in Israel. In some cases, the suspicions are unsubstantiated, and the suspects are released without indictments being filed against them.

Proposed bill encouraging emigration

On 25 July 2001, MK Michael Kleiner (Herut) submitted the *Proposed Encouragement of Emigration to Arab Countries Law—2001*.⁷¹

The bill states:

1. In this law—
“national”—has the same meaning as in the Nationality Law—1952;
“enemy country”—as defined in the Import and Export Ordinance [New Version]—1979;⁷²
“resident”—has the same meaning as in the Entry into Israel Law—1952;
“the Minister”—the Minister of Interior.
2. A resident or national of Israel who wishes to emigrate to an Arab country shall be entitled to an emigration basket.
3. Entitlement to an emigration basket is conditional upon relinquishing nationality, visa, and permanent-residency permit.
4. A person entitled to an emigration basket may waive his entitlement within thirty days from the day of approval, provided that he did not leave for an enemy country.
5. A person who waived his right to an emigration basket, pursuant to Section 3, will be reissued his prior legal status.
6. The Minister is charged with implementation of this law and he may enact regulations in all matters regarding its implementation, including the amount of the emigration basket.

The explanatory notes to the bill mention that:

The State of Israel has many nationals and residents who are interested in emigrating to Arab states for national, religious, cultural, or other reasons. The

⁷¹ Proposed Bill No. 2941 (later replaced by—Proposed Bill No. 3848). The bill was withdrawn and resubmitted, together with many other bills, because they were introduced during the last days of the summer session, without the approval of the Knesset presidency (the Speaker and his deputies). See the comments of the secretary of the Knesset, A. Han, the 269th sitting of the Fifteenth Knesset, 7 January 2002.

⁷² *Sefer Hahukim*—1952, p. 146.

State of Israel is interested in encouraging people to leave in cases where they do not identify with the Jewish character of the state and are interested in emigrating. This bill is likely to result in a reduction in ethnic-based friction within the territory of the state and in strengthening the foundations that will maintain Israel as a Jewish state and a democracy. However, to ensure equality before the law in a democratic spirit, every national and resident of the State of Israel is entitled to exercise this right, regardless of religion, race, or sex.

On 25 July 2001, MK Taleb El-Sana (United Arab List) wrote to the Speaker of the Knesset, contending that the bill is “racist and undermines the democratic nature of the state,” and that it should not be approved for introduction. The Knesset’s legal advisor, Anna Schneider, recommended in letters of 9 August 2001 and 7 November 2001, that the bill not be approved because of its anti-democratic and racist nature. She also emphasized that it should not be approved, pursuant to the provisions of Section 134(c) of the Knesset’s Rules of Procedure, which state restrictions comparable to those existing in Section 7A of the Basic Law: The Knesset.⁷³ Attorney Schneider reasoned:

Indeed the explanatory notes state that, to ensure equality before the law in a democratic spirit, the right to an emigration basket may be exercised by “every national of Israel regardless of religion, race, or sex.” However, the bill is clearly directed to encourage the emigration of Arabs. Who other than an Arab resident can be interested in “emigrating to Arab states for national, religious, cultural, or other reasons,” as mentioned in the explanatory notes?

Attorney Schneider continued:

The bill distinguishes between nationals and residents who choose to leave the country for Arab states, contrary to those who choose to leave the country for other states. The former will receive a financial benefit, but they will have to forever relinquish their nationality, which is an extremely grave infringement of their rights. As noted above—it is clear that this matter is directed toward the Arab nationals and residents of the state. The explanatory notes to the bill reinforce this conclusion... Nationals and residents who do not identify with the Jewish character of the state, that is, the Arabs living in the state, are the persons to whom the bill is addressed... Adoption of the bill of MK Kleiner

⁷³ Section 134(c) of the Knesset’s Rules of Procedure states: “The Speaker and the Deputy Speakers shall not approve a bill which is, in their opinion, racist in its essence, or rejects the existence of the State of Israel and the state of the Jewish people.” This subsection was enacted on 13 November 1985 following the Supreme Court’s decision in H.C. 742/84, *Meir Kahane v. Shlomo Hillel*, Supr. Ct. Rpt. 39 (4) 9. Rabbi Meir Kahane, head of the Kach movement, attacked the amendment on the grounds that it belonged in a statute or a constitution and not in the Rules of Procedure, but his argument was rejected. See H.C. 669/85, *Meir Kahane v. Shlomo Hillel*, Supr. Ct. Rpt. 40 (3) 393.

would create a situation in which the state encourages, by means of material benefits, the Jewish population to come to Israel and settle in it, while, as regards Arab nationals, the state encourages their leaving.⁷⁴

In February 2002, the Knesset's presidency decided to approve submission of the bill despite the opinion of the Knesset's legal advisor.⁷⁵ However, the bill was not brought for a vote in the Fifteenth Knesset.

MK Kleiner explained the rationale underlying the proposed bill:

Our bill, which is part of a bigger plan that Herut is crystallizing, is about encouraging Arab emigration to Arab countries. Most of the political parties in Israel still do not recognize that when we speak about the Palestinian problem, it's not only the three million Palestinians who live in Judea, Samaria and Gaza Strip but also the 1.2 million Palestinian Arabs who live in Israel as Israeli citizens. Most of them feel themselves to be Palestinians and identify with Palestinian causes. Actually, in most cases, there is no difference between a Palestinian Arab living in Jaffa and one living in Gaza....

Our bill addresses the issue of Israeli Arabs and puts on the table the question of loyalty. Since the laws in Israel and our Supreme Court are very keen on guarding against racism, the bill says that every Israeli, without mentioning Arabs, who wants to go to an Arab country will receive a sum of money to do so.⁷⁶

Proposed bill oppressing Palestinian memory

On 24 July 2001, MKs Zvi Hendel, Eliezer Cohen, Michael Nudelman, (all National Union—Yisrael Beiteinu), and Nahum Langental (National Religious Party) laid on the Knesset's table the *Proposed Independence Day (Amendment—Prohibition on Commemorating Nakba Day) Law—2001*.⁷⁷ The bill states:

1. In the Independence Day Law—1949, after Section 1 shall come:

1A(a) A person shall not arrange an act or event that involves the commemoration of independence day or the very establishment of the State of Israel as a day of mourning or a day of sadness.

(b) A person who violates the provisions of Section (a) is subject to imprisonment of one year or a fine of NIS 10,000, or both.

⁷⁴ Letter from Anna Schneider, the Knesset's legal advisor, to MK Avraham Burg, Speaker of the Knesset, 7 November 2001, regarding "Consideration by the Knesset's Presidency in the Matter of the Proposed Encouragement of Emigration to Arab Countries Law—2001 of MK Michael Kleiner (PB 2941)," pp. 8–9. See also *Ha'aretz*, 2 September 2001; *Ha'aretz*, 25 November 2001; and *Ha'aretz*, 31 December 2001.

⁷⁵ See the announcement of the deputy secretary of the Knesset, D. Lev, the 287th sitting of the Fifteenth Knesset, 19 February 2002. See also *Ha'aretz*, 19 February 2002.

⁷⁶ Interview with MK Michael Kleiner on the Kahane Tzadak [Kahane was Right] website: Tzivvia Emmer, *MK Michael Kleiner*, available at www.smolanim.com/articles/kleiner.html.

⁷⁷ Proposed Bill No. 2899.

In the explanatory notes, the bill's sponsors wrote:

Immediately following the founding of the state, the Independence Day Law—1949, was enacted. The law strengthens the status of Independence Day as a state holiday and non-work day. In those days, it seems, Independence Day was perceived as a national holiday that was to be celebrated in large numbers. Quite the opposite, for there arose various individuals and groups—who benefit from the pleasures of a democratic state that allows its citizens freedom of speech, but misuse it. These people arrange actions that undermine the existence of the State of Israel. They do this by commemorating Independence Day or the establishment of the state by events of mourning and “catastrophe.” Therefore, it is proposed to prohibit by law acts that commemorate Independence Day or the founding of the state as a day of mourning, and to impose harsh punishment on a person who exploits the democratic and enlightened nature of the State of Israel to bring about its collapse from within.

This bill is directed against those Palestinian citizens in Israel for whom the State of Israel was founded on the ruins of their people. The Israeli “independence day” is the “day of *Nakba* [catastrophe]” for them. This day symbolizes the expulsion of the Palestinian people from their land, displacement from their homeland, and the destruction of hundreds of their villages. This is a day on which the Palestinian refugee situation began, when the Palestinian people dispersed throughout the world. On this day, therefore, Palestinian citizens in Israel recall the past and visit sites on which their villages were located, of which only remnants remain. This bill seeks to expropriate the collective memory of Palestinian citizens in Israel and force a foreign consciousness on them. This bill is absurd in the sense that it wants them to be joyous on a day in which they mourn. Palestinian memory, which finds expression on this day, clearly does not endanger the State of Israel. The bill seeks, as many other bills do, to compel Palestinian citizens in Israel to distort their individual and collective identity and internalize the self-denial and total identification with the other, who rejects them and refuses to accept them as they are.⁷⁸ It also seeks to criminalize the history of the Palestinian people and their remembrance of this history.

Proposed bill regarding lands and settlement

On 18 February 2002, twenty-two MKs from the Right submitted the *Proposed Israel Lands (Amendment—Allocation of Land for*

⁷⁸ Azmi Bishara writes: “To be an Arab-Israeli, the Arab Israeli must be part of his denial.” *Between the I and the We: The Construction of Identities and Israeli Identity*, Azmi Bishara, ed. (Van Leer Jerusalem Institute, 1999), p. 14 [Hebrew].

Jewish Settlement) Law—2002.⁷⁹ Subsequently, sixty-one MKs signed the bill. The proposed amendment would add the following clause to the Israel Lands Law—1960:⁸⁰

Section 2(8) Allocation of land included within Israel lands, or transfer of rights therein in any manner whatsoever, to the Jewish Agency, for its purposes in accordance with the Status of the World Zionist Organization and of the Jewish Agency for Eretz Yisrael Law—1953, provided that the allocation of land for Jewish settlement only will be done only if the Minister of Defense confirmed that the action is necessary for security reasons, or if the ministers in charge of implementation of the law confirmed that the action is necessary to preserve the nature of the communities that are based on an ideological way of life or a uniform community framework, dependent on cooperation of the community's residents.

The bill also seeks to amend Section 4 of the Status of the World Zionist Organization and of the Jewish Agency for Eretz Yisrael Law—1953, by substituting the word “and its settlement” with the words “and for Jewish settlement,” such that the section would read as follows:

The State of Israel recognizes the World Zionist Organization and the Jewish Agency for Eretz Yisrael as the authorized agencies that will continue to act in the State of Israel towards development of the country *and for Jewish settlement*, and for absorbing immigrants from the Diaspora and for coordinating the actions in Israel of the Jewish institutions and associations operating in these areas.

The bill is intended to negate the possibility of allocation of “state lands” in the State of Israel for the Palestinian minority, for example, to build new communities in which Palestinian citizens in Israel would reside. This bill was drafted in response to the critique by the political Right of the Supreme Court's decision in *Qa'dan*.⁸¹ The MKs who initiated the bill stated in its explanatory notes as follows:

In H.C. 6698/95, *Qa'dan* ... the Supreme Court ruled that, “the state is not permitted to discriminate directly on the basis of religion or nationality in allocating state land. As a result, the state is also not permitted to discriminate indirectly on the basis of religion or nationality in allocating state land. Therefore,

⁷⁹ Proposed Bill No. 3485 (formerly No. 2908). The twenty-two MKs were H. Druckman, Z. Orlev, N. Langental (National Religious Party), B. Elon, Eliezer Cohen, M. Nudelman, Z. Hendel (National Union—Yisrael Beiteinu), I. Gagula, A. Gamliel, O. Hugi, N. Zeev, Y. Shaban, Y. Peretz, D. Tal (Shas), E. Sandberg (Shinui), S. Halpert (Yahadut Hatorah), Yisrael Katz, Y. Matza, A. Kara, Y. Shteinitz, A. Hirschson (Likud), and G. Riger (Yisrael B'Aliya).

⁸⁰ *Sefer Hahukim*—1960, p. 56.

⁸¹ H.C. 6698/95, *Adel Qa'dan v. Israel Lands Administration, et. al.*, Supr. Ct. Rpt. 54 (1) 258. The case involved the refusal of the Israel Lands Administration, the Jewish Agency and>>

the state is not permitted to allow such discrimination in state lands by means of transferring land to the Jewish Agency. Nothing in law establishes the World Zionist Organization and the Jewish Agency, or in a compact between the government of Israel and the Jewish Agency, that sanctions discrimination of this kind in allocation of the state's land.”⁸²

The nature of the Jewish Agency, now as in the past, is to encourage and assist the return of the Jewish people to its homeland and to its land and to settle it anew. To do this, it serves as a bridge between the Jewish people in Israel and the Diaspora, and enables, with the assistance of Diaspora Jewry, the existence of Jewish settlement in the Land of Israel.

In its ruling, the Supreme Court effectively disqualified the Jewish Agency from operating to attain its purpose and goal, and undermined the basis of its activity on behalf of Jewish settlement in Israel. The Court preferred the principle of equality, of a state of all its citizens, over its value as a Jewish state when it recognized the right of the petitioner to build his house precisely within the area of a cooperative communal settlement, although he could have received state land and built his house on an adjacent hill within the confines of the same community in the same regional council.

The decision of the Supreme Court also ostensibly creates a legal trap: It is inconceivable that the Jewish Agency, to which the Israel Lands Administration allocates land to achieve its objectives, will settle non-Jews on the land in fundamental breach of the consensual understanding between the Israel Lands Administration (ILA) and the Jewish Agency, and a breach of contract. While, if the Jewish Agency prevents a person who is not Jewish to be included in its settlement plan for ILA lands, the contract between the ILA and it would become illegal and void.

The purpose of this bill is to enshrine in statute the subjects involved in the

<<the Katzir Cooperative Association to allow the Qa'dan family, Palestinian citizens of Israel—from Baqa al-Garbiyeh in the Triangle [area northeast of Tel Aviv]—to reside in Katzir, a neighboring community. The Court ruled, in March 2000, that the refusal amounted to unlawful discrimination. The petitioners argued that the state must treat them equally because the land on which Katzir was established is “state land,” and that the policy of discrimination based on national belonging implemented by the Jewish Agency, which operates as an arm of the state, is discriminatory. The state argued that it must honor its agreements with the Jewish Agency, as set forth in explicit legislation enacted by the Knesset, and that it does not interfere in the considerations taken into account by the Jewish Agency. The Jewish Agency argued that it is obliged, in accordance with its role and character, to develop the country for the welfare of the Jewish people alone. The political Left received the decision with much excitement, while the Right strongly criticized the Court's ruling. Palestinian citizens in Israel, on the other hand, reacted with relative indifference. For criticism of the judgment from the Left, see 2 *Adalah's Review* (2000), and Hassan Jabareen, “The Future of Arab Citizenship in Israel: Jewish-Zionist Time in a Place with No Palestinian Memory,” 6(1) *Mishpat Umeshal A*, p. 53 (2001) [Hebrew]. Although three years have passed since the Court's ruling in *Qa'dan*, the judgment has not been implemented, and the Qa'dans have not yet managed to take up residence in Katzir.

⁸² Paragraph 38 of the Supreme Court's decision.

Supreme Court's judgment, the components that enable the state to allocate land to the Jewish Agency to meet the needs of Jewish settlement throughout the country, thus recognizing the proper and necessary purpose within the meaning of the Basic Law: Human Dignity and Liberty.

It should be mentioned that the principle of giving preference to Jewish settlement conforms to the policy of governments of Israel to recognize [should read: that recognized—N.S.] the need to Judaize various areas throughout the state.

In January 2002, the Knesset's legal advisor, Anna Schneider, requested the presidency of the Knesset to consider not approving the bill because it is problematic and ostensibly racist in substance.⁸³ Despite her recommendation, the Knesset's presidency approved the bill by majority vote.⁸⁴

The coalition government headed by Ariel Sharon adopted the bill. It was only the harsh criticism leveled against the bill that led to its "burial" in committee (see Chapter 2 of this report). Otherwise, the bill would have become law because of the support it received among MKs (as is evident from the sixty-one MKs who signed the bill).

Proposed bill regarding the mass protests in October 2000

On 24 July 2002, MK Michael Kleiner (Herut) laid on the Knesset's table *Proposed Commissions of Inquiry (Amendment—Cessation of Commission's Activity) Law—2002*.⁸⁵ The bill proposes as follows:

- 1A. Where the government finds that the public interest requires cessation of the work of a commission of inquiry that was established pursuant to this Law, it may decide, with the approval of the Knesset, to cease the work of the commission as stated for a certain period or permanently.
- 1B. The commission of inquiry investigating the clashes between security forces and Israeli citizens that was established pursuant to Government Decision No. 2490, of 10 Heshvan 5761, will cease its work upon passage of this Law.

The explanatory notes to the bill state:

The Commissions of Inquiry Law does not set forth a way for ceasing the operation of a commission of inquiry.⁸⁶ That is, from the moment that the commission is set up, there is no turning back even if the government, the commission, all the other entities, or all of them together agree on the need for such.

⁸³ *Ha'aretz*, 16 January 2002.

⁸⁴ See the announcement of the deputy secretary of the Knesset, D. Lev, 287th sitting of the Fifteenth Knesset, 19 February 2002.

⁸⁵ Proposed Bill No. 4060.

⁸⁶ Commissions of Inquiry Law—1968, *Sefer Hahukim*—1968, p. 28.

It is proposed, therefore, that the Knesset approve the establishment of commissions of inquiry and that the government, with the approval of the Knesset, be allowed to cease the operation of a commission of inquiry for a set period of time or permanently.

Section 1B states, in an emergency provision, for the termination of the “Or Commission.” The motives underlying its establishment and the benefit it was supposed to generate were disputed from the start. It now appears that wide consent is steadily growing that the damage caused by the commission is greater than its benefits, and that the public is interested in terminating its activity.

The present law does not enable cessation of the operation of the Or Commission, even if the government, the commission itself, or the Chief Justice of the Supreme Court wanted it to cease, and it is doubtful if the general norm set forth in the amendment applies to a commission that already exists. Therefore, the bill provides, in an emergency provision, for the cessation of the activity of the Or Commission, while in the future, cessation of the work of a commission will only be in the manner set forth in Section 1A.

On 23 October 2002, the Knesset removed the bill from the agenda on preliminary reading by a vote of fifty-six to five, with one abstention.⁸⁷

Proposed bills related to political rights and freedom of speech

On 13 November 2000, MK Yisrael Katz (Likud) submitted the *Proposed Declaration of the Islamic Movement in Israel as an Unlawful Association Law—2002*.⁸⁸ Section 1 of the bill states that, “The Islamic Movement in Israel will be considered an unlawful association for the purpose of Section 145 of the Penal Law—1977.”

The explanatory notes to the bill state, in part, that:

The two factions of the Islamic Movement maintain a religious and social system in the fundamentalist spirit of the Islamic Brotherhood, which is part of it. Its messages are characterized by incitement and an anti-Israeli, anti-Jewish ideological line that is reflected in the movement’s publications and news organs, sermons in mosques, and other frameworks. The Islamic Movement holds mass assemblies in stadiums in Israel in which they incite the Muslim population to activity against the anticipated danger to al-Aqsa mosque by the Jews and Israel’s government. The Movement uses a municipal and organizational infrastructure of several towns and villages in Israel in which it has influence resulting from its success in the local elections; these entities use, as noted, resources, facilities,

⁸⁷ The 346th sitting of the Fifteenth Knesset, 23 October 2002.

⁸⁸ Proposed Bill No. 2319.

and moneys to advance their goals.

Believing that the bill would not receive a majority vote, MK Katz froze the bill before it reached preliminary reading. However, following the seventh annual mass assembly that the Islamic Movement held in September 2002, under the slogan “al-Aqsa is in Danger,” the General Security Services (GSS) recommended that the movement be banned.⁸⁹ MK Katz announced that he would bring his bill to a vote on preliminary reading immediately at the opening of the winter session. Prime Minister Ariel Sharon supported the bill.⁹⁰ The President of Israel, Moshe Katsav, in an interview he gave to Israel radio’s Channel Two on 30 September 2002, said that “the legal authorities should examine if there is justification and a basis for banning the Islamic Movement.”⁹¹ On 20 October 2002, the Ministerial Committee for Legislation decided to oppose the bill. At a meeting of the Committee, its head, Minister of Justice Meir Sheetrit, said that the bill should not be promoted because following the mass assemblies held by the Islamic Movement, the Attorney General was holding discussions concerning the movement. It should be mentioned that the Prime Minister’s Office expressed support for the bill on its preliminary reading, having received the promise of the bill’s sponsor not to push for its enactment without the government’s consent; the Ministerial Committee for Legislation did not accept this position. According to the Knesset’s Rules of Procedure, sponsors of a bill may seek Knesset approval despite the opposition of the Ministerial Committee for Legislation. The effect of the Ministerial Committee’s decision is that all MKs in the coalition must vote against the bill.⁹²

The bill infringes the freedom of association, the freedom of political participation, and the freedom of speech rights of Palestinian citizens in Israel.

On 2 July 2001, MK Michael Kleiner (Herut) submitted the *Proposed Law Amending the Prevention of Terrorism Ordinance (Removing the Kach Movement and its Registered Members from the List of Terror Organizations)*—2001.⁹³ The bill would legitimize the Kach organization, which was founded by Rabbi Meir Kahane.⁹⁴ The explanatory notes state, in part:

The present situation impairs the freedom of speech of Kach’s members.

⁸⁹ *Ma’ariv*, 23 September 2002; *Ha’aretz*, 24 September 2002.

⁹⁰ *Ma’ariv*, 24 September 2002.

⁹¹ See <http://bet.iba.org.il>.

⁹² *Ha’aretz*, 21 October 2002.

⁹³ Proposed Bill No. 2783. An identical earlier bill, No. 1101, was rejected by the Knesset’s plenum on 23 May 2001. See *Walla*, 23 May 2001 (www.walla.co.il or www.walla.com).

⁹⁴ Kach first entered the Knesset in 1984, during the sitting of the Eleventh Knesset. Changes in the Basic Law: The Knesset, specifically the enactment of Section 7A of the said basic law, which enables the disqualification of racist and anti-democratic parties, was the basis for>>

Distinction must be made between opposing the opinions of members of the Kach movement and even denying its right to run for the Knesset, and declaring the movement a terror organization only because of opposition to the opinions and positions that it expresses.

The Knesset has not yet voted on the bill.

<<disqualifying Kach from running in the elections to the Twelfth Knesset in 1988. In November 1990, Rabbi Meir Kahane was murdered in the United States. In 1994, following the massacre committed by Baruch Goldstein in al-Haram al-Ibrahimi in al-Khalil [Tomb of the Patriarchs, in Hebron], the government declared Kach and Kahane Chai, which had split from Kach, as terror organizations, thus prohibiting their activity. See Ami Pedhatzor and Daphne Canetti, "Kahane Died, and He Lives in Israel," *Panim (Faces)—Society and Education Journal*, Vol. 20, pp. 123-131 (May 2002) [Hebrew].

Proposed bills strengthening Jewish identity

Since the mass protests in October 2000, “loyalty to the state,” emphasis on the Jewish identity of the state, and the symbols of the Jewish state have been a major source of interest in the Knesset. Seven proposed bills on these subjects follow.

1. On 13 November 2000, MK Haim Druckman (National Religious Party) submitted *Proposed Basic Law: The Knesset (Amendment—Text of Pledge of Allegiance)*.⁹⁵

Section 15(a) of the Basic Law: The Knesset states as follows:

A Knesset member shall make a declaration of allegiance; the declaration shall read as follows: “I pledge myself to bear allegiance to the State of Israel and faithfully to discharge my mandate in the Knesset.”

The proposed bill provides:

In the Basic Law: The Knesset, Section 15, Subsection (a), after “I pledge myself to bear allegiance to the State of Israel” shall come “as a Jewish and democratic state.”

It is important to note that Section 16 of the said basic law states that an MK who does not make the said declaration, “shall not enjoy the rights of a member of the Knesset so long as he has not made the declaration.”

2. On 13 November 2000, MK (and later Cabinet minister) Dan Naveh (Likud) laid on the Knesset’s table the *Proposed State of Israel as a Jewish and Democratic State (Legislative Amendments) Law—2000*.⁹⁶ The bill would amend several laws. The objective of these amendments, as MK Naveh wrote in the explanatory notes, is “to establish the duty of allegiance to the State of Israel as a Jewish and democratic state.” Thus, the bill proposes, for example, that the Political Parties Law contain a clause stating, “A party shall not be registered unless one of its declared purposes stated on the application form for registering a party is a commitment to the State of Israel as a Jewish and democratic state.”
3. On 27 November 2000, a group of nineteen MKs submitted the *Proposed*

⁹⁵ Proposed Bill No. 2340. Identical bills, No. 3283 (submitted on 7 January 2002) and No. 1944 (removed from the Knesset’s agenda on preliminary reading by a vote of twenty-eight to three, with two abstentions, at the 216th sitting of the Fifteenth Knesset, 27 June 2001), were submitted by MK Michael Kleiner (Herut).

⁹⁶ Proposed Bill No. 2327.

*Basic Law: State of Israel as a Jewish and Democratic State.*⁹⁷

The bill states that, “The State of Israel is the state of the Jewish people and the center of its life” (Section 1(a)), and “The State of Israel shall maintain its special character as a Jewish state” (Section 1(b)). Section 2 of the bill states:

There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel as a Jewish state by regulation enacted by virtue of express authorization in such law, enacted for a proper purpose, and to an extent no greater than is required.

This section is similar to clauses currently found in the Basic Law: Human Dignity and Liberty and the Basic Law: Freedom of Occupation. However, unlike those clauses, in Section 2 of the proposed bill, the term “Jewish and democratic state” is not mentioned. Rather, the term “Jewish state” is used. The bill also establishes the Jewish Sabbath as a day of rest (Sections 4, 5), the safeguarding of Kashrut (Section 6), and the inclusion of Jewish religious law in legislation and in court decisions (Section 8). In the explanatory notes, the bill’s sponsors wrote:

The purpose of this bill is to enshrine in basic legislation the Jewish character of the State of Israel, as it is defined in the Declaration of Independence made upon the state’s founding. The proposed basic principles, which endeavor to define and shape the character of the Jewish state, is intended to characterize the state as bound and connected to the Jewish values of the Jewish people throughout history, not only as the national home for Jews whoever they may be, but also as a state that applies these principles in its daily life.

4. On 4 December 2000, MK Haim Druckman (National Religious Party) submitted the *Proposed Duty of Allegiance to the State of Israel as a Jewish and Democratic State (Legislative Amendments)*—2000.⁹⁸ The bill would amend several major laws (such as the Knesset Members (Immunity, Rights and Duties) Law—1951, the Political Parties Law—1992, and the Nationality Law—1952). The amendments are intended to establish allegiance to the State of Israel as “a Jewish and democratic state,” in order to emphasize the state’s ethnicity.

⁹⁷ Proposed Bill No. 2388. The bill was signed by the following MKs: H. Druckman, Y. Bibi, N. Langental, Z. Orlev (National Religious Party), Y. Edelstein (Yisrael B’Aliya), B. Elon, S. Yahalom, Eliezer Cohen, Z. Hendel, Y. Shtern (National Union—Yisrael Beiteinu), I. Gagula, D. Azoulay, N. Zeev, R. Melloul, Y. Peretz, D. Tal (Shas) A. Ravitz (Yahadut Hatorah), Yisrael Katz, Y. Shteinitz (Likud). MK Michael Kleiner (Herut) submitted a similar bill (Proposed Bill No. 2746), titled The Proposed Basic Law: State of Israel as the State of the Jewish People, on 18 June 2001.

⁹⁸ Proposed Bill No. 2401.

5. On 24 July 2001, MK Ophir Pines-Paz (Labor) submitted the *Proposed Basic Law: Return*.⁹⁹ The bill would change the name and status of the Law of Return—1950¹⁰⁰ to Basic Law: Return. The explanatory notes state:

Enshrining the principle that every Jew is entitled to immigrate to Israel is a central component of the nature of the State of Israel as the state of the Jewish people, in accordance with the principles of the Declaration of Independence, and it provides substance and value to the term “Jewish state.” The purpose of the bill is to raise the Law of Return to the norm of a basic law.

6. On 22 July 2002, MK Zvi Hendel (National Union—Yisrael Beiteinu) submitted the *Proposed Basic Law: State of Israel Anthem*.¹⁰¹ This bill states:

1. The state anthem is Hatikvah, whose words are:

In the Jewish heart
A Jewish spirit still sings,
And the eyes look east
Toward Zion
Our hope is not lost,
Our hope of two thousand years,
To be a free nation in our land,
In the land of Zion and Jerusalem.

2. This basic law shall not be changed other than by a basic law that is passed by a majority of members of the Knesset.¹⁰²

The explanatory notes to the bill state:

The lyrics of the anthem became one of the central points of the Israeli Zionist experience upon the establishment of the state. It is therefore important to preserve the national anthem that has become a symbol. The law would prevent a change of anthem by a chance majority in the Knesset.

7. In July 2002, MK Michael Kleiner (Herut) submitted the *Proposed Basic Law: The Knesset (Amendment—Right to Elect)*.¹⁰³ The

⁹⁹ Proposed Bill No. 2920. Identical bills, Nos. 1758 and 1831, were submitted in the Fifteenth Knesset.

¹⁰⁰ *Sefer Hahukim*—1950, p. 159.

¹⁰¹ Proposed Bill No. 4029. A similar bill, No. 2689, initiated by MK Avraham Hirschson (Likud) and others, was submitted earlier in the Fifteenth Knesset.

¹⁰² A “majority of members of the Knesset” means a majority of sixty-one members (from among the Knesset’s 120 members).

¹⁰³ Proposed Bill No. 3913. The Knesset’s website did not present the complete title of the bill.

bill requires a pledge of allegiance to Israel as a Jewish state, and its flag, seal, and anthem. The bill states that every citizen who wishes to take part in Knesset elections must sign a pledge of allegiance to the State of Israel as a Jewish state; failure to sign the declaration would disqualify the individual from taking part in the elections. In the explanatory notes to the bill, MK Kleiner states that the current law enables every citizen to vote and to be elected. In his opinion, in multi-national states that bordered states with a similar ethnic population, participation in elections was contingent on the swearing of allegiance. He added that, according to the Declaration of Independence, the purpose of the founding of Israel is that it exist as a Jewish state: "Whoever does not accept such a definition of the state will not be able to vote or be elected."

In her legal opinion, the Knesset's legal advisor, Anna Schneider, held that the wording of the pledge of allegiance proposed by MK Kleiner differs from that of other pledges of allegiance. Schneider emphasized that:

The bill of MK Kleiner is liable to raise the contention that the bill is racist in substance, in part because it requires the commitment to maintain allegiance [to Israel] as a Jewish state (without the customary addition in the legislation of "and democratic") and to the anthem (which is clearly of a Jewish nature), a demand that is liable to raise difficulties for citizens of the state who are not Jews as regards the right to elect, which is a basic right in our form of government.

Schneider recommended that the presidency of the Knesset "examine the bill with special attention before deciding whether to lay it on the Knesset's table." On 15 July 2002, the presidency decided, by a majority of one vote, to allow the bill to be brought before the Knesset for approval.¹⁰⁴ However, the bill was not brought for a vote in the Fifteenth Knesset.

¹⁰⁴ *Walla website*, 16 July 2002.

Bills to advance the rights of the Palestinian minority

Arab MKs, at times together with MKs from the Jewish Left, submitted bills to advance the rights of the Palestinian citizens of Israel. These bills were rejected or were not submitted to a vote because of the lack of a majority in favor of the bill. Seven different bills are discussed below.

1. On 11 December 2000, MK Ahmad Tibi (Ta'al) submitted the *Proposed Restriction on Demolition and Punishment for Illegal Building in the Arab Sector (Emergency Regulation) Law—2000*.¹⁰⁵ The bill states:

1. Notwithstanding the provisions of the [National] Planning and Building Law—1965,¹⁰⁶ and of any other law, no administrative or judicial order of demolition shall be implemented and no other punishment shall be imposed for the erection of a temporary or permanent residential structure, done without permit or in violation of the permit or plan, if the person who erected the structure, his household members or family members are the owners of the land on which the structure was built, unless—(1) the person erecting the structure is offered a solution, in writing, for substitute housing on land for construction; (2) more than two years have passed since the delivery of the offer mentioned in paragraph (1) and the recipient of the offer did not exercise it.

The bill states that the law will remain in effect for ten years. MK Tibi wrote in the explanatory notes:

This bill is proposed following the grave distress existing among residents of the Arab villages... A situation has been created whereby residents of these villages are unable to build their homes on the land on which they reside, on the one hand, while, on the other hand, the State of Israel does not enable them to build on alternate land, does not offer them housing solutions, and demolishes their houses that are built without the proper permits. It is inconceivable that a modern state does not give a citizen a meaningful chance to build his house, and, contrarily, demolishes the individual's house because it was erected without a permit, even though it was impossible for the citizen to obtain the requisite permit.

The bill has not yet been brought to a vote.

¹⁰⁵ Proposed Bill No. 2441.

¹⁰⁶ *Sefer Hahukim*—1965, p. 307.

2. On 26 February 2001, MK Azmi Bishara (NDA) submitted the *Proposed Basic Law: Human Dignity and Liberty (Amendment—Equality)*.¹⁰⁷ The bill was proposed to rectify the conspicuous absence of the principle of equality in the Basic Law: Human Dignity and Liberty.¹⁰⁸ Rather, the opposite is true: It emphasizes the ethnicity of the state. The law's history shows that the principle of equality was intentionally deleted from the text of the law for two reasons: To preserve the status quo between the secular and the religious Jewish citizens of the state, and to preserve the Jewish identity of the state.¹⁰⁹ The bill proposes to add the following section:

7A. Everyone is equal before the law; equality of opportunity is the right of every citizen of the state; a person shall not be discriminated against on the basis of race, nationality, sex, ethnic group, religion, religious stream, ideology, personal or social status, political affinity, or any other reason.

In the debate on preliminary reading of the bill, held on 23 January 2002, the vote was forty-two against and sixteen in favor.¹¹⁰ Minister Tzipi Livni (Likud) spoke against the bill in the name of the government. She argued that the government opposes the enactment of basic laws or amendments to basic laws that are not agreed upon by all the government's coalition members.¹¹¹

3. On 26 February 2001, MK Azmi Bishara (NDA) submitted the *Proposed Nationality (Amendment—Granting Nationality to Arabic Speakers) Law—2001*.¹¹² On 24 July 2001, MKs Tawfik Khatib and Muhammad Kanan (National Arab Party) submitted an identical bill, the *Proposed Nationality (Amendment—Conditions for Naturalization) Law—2001*.¹¹³ The two bills propose an additional alternative to the knowledge of Hebrew as a condition for naturalization.¹¹⁴ The law currently requires knowledge of Hebrew, and the bill proposes that “or Arabic” be added. In response to the bill of MK Bishara, Minister Dan Naveh, who served as the minister in charge of ties between the Knesset and the government, spoke on behalf of the government. He said that the

¹⁰⁷ Proposed Bill No. 2556.

¹⁰⁸ *Sefer Hahukim*—1992, p. 150.

¹⁰⁹ Judith Karp, “Basic Law: Human Dignity and Liberty—Biography of a Power Struggle,” *A2 Mishpat Umemshal* 342 (1993) [Hebrew].

¹¹⁰ The 277th sitting of the Fifteenth Knesset, 23 January 2002.

¹¹¹ The bill was again laid on the Knesset's table, on 11 November 2002, as Proposed Bill No. 4232.

¹¹² Proposed Bill No. 2559.

¹¹³ Proposed Bill No. 2879.

¹¹⁴ See Section 5(a)(5) of the Nationality Law—1952.

government opposes the bill because MK Bishara's true aim is that:

The State of Israel significantly change its character and become a state of all its citizens—a state of Jews and Arabs, maybe even of other nationalities, but not a Jewish and democratic state.

... in holding the nature of the State of Israel as a Jewish and democratic state—this matter is understood, that in the test for obtaining nationality by naturalization, the test will be a test that relates to the Hebrew language.

MK Bishara's bill was defeated on preliminary reading by a vote of forty-seven to seventeen.¹¹⁵

4. On 28 March 2001, MK Muhammad Barakeh (Hadash) submitted the *Proposed Basic Law: Equality of the Arab Population*.¹¹⁶ MKs Muhammad Barakeh, Tamar Gozansky, and Issam Makhoul (Hadash); Azmi Bishara (NDA); Ilan Ghilon, Hussniya Jabara and Mossi Raz (Meretz); and Ahmad Tibi (Ta'al) signed the bill. The bill would enshrine the right of Arab citizens of Israel to meaningful equality, non-discrimination, and statutory affirmative action. The bill reads as follows:

1. The rights of Arab citizens in Israel and the commitment of Israeli society to these rights are based on recognition of the principle of equality, on the recognition of human worth, and on the principle of human dignity.
2. The purpose of this basic law is to safeguard the dignity and liberty and rights of Arab nationals of the state, as citizens and as a national minority.
3. (a) Every Arab national of Israel is entitled to meaningful equality and non-discrimination in social, economic, cultural, and political rights.
(b) Every Arab national of Israel is entitled to meaningful equality and non-discrimination in education, housing, employment, and property.
4. (a) The Arab minority in Israel is entitled to nurture its national, Arab-Palestinian identity, is entitled to shape and develop it freely, and to inculcate this identity in the young generation.
(b) Arab education shall be based on Palestinian, Arab and humanitarian cultural values, on the special connection with the rest of the Palestinian people, on the right to equal and complete nationality, and on co-existence with the Jewish people in Israel based on equality of rights and mutual respect.

¹¹⁵ The 308th sitting of the Fifteenth Knesset, 22 May 2002.

¹¹⁶ Proposed Bill No. 2670. Similar bills were laid on the table of the Fifteenth Knesset: No. 1761 (15 May 2000) and No. 1202 (3 January 2000). Proposed Bill No. 1761 was removed from the Knesset's agenda on preliminary reading by a vote of thirty-six to eighteen, with one abstention. See the 189th sitting of the Fifteenth Knesset, 21 March 2002.

5. An act intended to rectify previous or current discrimination of the Arab minority, or which is intended to promote the equality of the Arab minority, shall not be considered unlawful discrimination.
6. Every government authority is obliged to respect the rights set forth in this basic law.

The explanatory notes of the bill state:

A similar bill that was laid on the Knesset's table raised great interest as a result of one of its sentences, which defined the State of Israel as a "democratic and multi-cultural" state. This led to opposition to the bill and gave many members of the Knesset reason not to support the bill, the purpose of which was to enshrine in statute the principle of equality. The present bill does not contain the said sentence, but focuses on the principle of equality.¹¹⁷

To give substance to the declarations of intent made by government leaders regarding the equality of Arab citizens, we again propose to enshrine the matter in a bill that states the duty to implement equality in practice.

Therefore, alongside the other laws in the Laws of Israel whose purpose is to provide a foundation for the principle of equality, it is proper, fifty-one years after the founding of the state, to enact a law enshrining the equality of the state's Arab minority.

The bill has not yet been brought to a vote.

5. On 21 May 2001, MK Azmi Bishara (NDA) submitted the *Proposed Basic Law: Arab Minority as a National Minority*.¹¹⁸ The bill states:

1. The purpose of this Basic Law is to enshrine in basic law the status of the Arab minority in Israel as a national minority entitled to collective rights and complete civil equality.
2. The Arab minority in Israel includes every Israeli national who defines himself as Arab and whose mother tongue is the Arabic language.
3. The fundamental rights and basic liberties of the Arab minority are based on recognition of a person's worth, the sanctity of human life, of human dignity and freedom, and shall be respected in the spirit of the principles of natural justice and principles of international law, emphasizing that the state's Arab

¹¹⁷ See Proposed Bill 1202, submitted by MKs Muhammad Barakeh, Issam Makhoul and Tamar Gozansky (all Hadash). Section 2 of the original proposed bill states: "The purpose of this Basic Law is to safeguard the dignity and liberty of the Arab citizens of the state, as Israeli nationals and as an Arab-Palestinian national minority, in order to enshrine in a Basic Law the values of the State of Israel as a democratic and multi-cultural state."

¹¹⁸ Proposed Bill No. 2705.

nationals are native born.

4. (a) The Arab nationals of the state are entitled to complete civic equality, and to complete equality of opportunity. Discrimination against a person because he is Arab is prohibited.
(b) Every law, policy, and every government or private program that benefits the Arab minority because of oppression committed against it in the present or past shall not be considered discrimination.
5. Members of the Arab minority are entitled to proper representation in all state institutions.
6. Members of the Arab national minority are entitled to freely nurture and develop their culture, traditions, and customs.
7. Members of the Arab national minority are entitled to build and establish institutions representing them in every field that distinguishes them as a national minority.
8. (a) The Arabic language, the national language of the Arab minority, is the second official language of the State of Israel.
(b) The state shall take the necessary measures to give members of the Arab national minority appropriate opportunity to study their mother tongue.
(c) Every governmental publication shall be published in the Arabic language.
9. Members of the Arab national minority shall be given the right to take active part in decision-making in matters involving them, in accordance with the rules of democratic government.
10. The State of Israel recognizes the special connection of the Arab minority to the Palestinian people and to other Arab peoples.
11. (a) The state shall take the necessary measures to enable Arab citizens to express their Arab identity, develop their culture, language, and tradition.
(b) The state shall take the necessary measures in the field of education in order to enable, and also to encourage, the members of the Arab minority to acquire knowledge and learn their history, tradition, and culture.
(c) The state shall take the necessary measures to fully involve Arab citizens in the economic advancement and development of the state.
12. There shall be no violation of rights under this Basic Law except by a law befitting the values of the State of Israel as a democratic state enacted for a proper purpose, and to an extent no greater than is required.
13. This Basic Law shall not be subject to change by emergency regulations, nor may emergency regulations interrupt its validity temporarily or set conditions for its application.
14. This Basic Law shall not be changed other than by a basic law passed by a majority of the members of the Knesset.

The Minister of Justice, MK Meir Sheetrit, presented the reasons for the government's opposition to the bill:¹¹⁹

The government opposes the bill for several reasons. First, the government decided to oppose private members' bills to enact basic laws, unless the entire coalition consented...

Second, as regards the substance of the bill... The wording of the bill is not appropriate because certain clauses intentionally deviate from the customary wording of basic laws by not referring to the declaration on the founding of the state, and do not mention the values of Israel as a Jewish and democratic state...

Third, the bill under discussion speaks about the minority's right, as distinguished from the individual's right, to equality. Reference to the right of a group to equality raises problems in several contexts, among them the difficulty in maintaining special institutions resulting from the state being a Jewish state, such as the Hebrew Language Academy, the special status of the Jewish Agency, and the like. Also, the right to equality does not justify establishment of "national institutions" of the Arab minority, as the bill proposes.

For the aforesaid reasons, I propose that the bill be removed from the agenda.

The bill was rejected by a vote of sixty to nine, with one abstention.

6. On 29 October 2001, MK Ahmad Tibi (Ta'al) submitted the *Proposed Establishment of Hospitals in Taybeh, Umm al-Fahem, and Sakhnin (Legislative Amendments) Law—2001*.¹²⁰ The bill states:

1. In the Public Health Ordinance—1940,¹²¹ after Section 24A shall come:
24B. Notwithstanding the provisions of any law, the director shall order the building of hospitals in the cities of Taybeh, Sakhnin, and Umm al-Fahem.
2. In the Israel Lands Administration Law—1960,¹²² in Section 4H, after paragraph (e) shall come:
(f) After the Minister of Health requested that a hospital be erected, the council shall have the duty to allocate land, as stated, within one month from the time that the request is made.
3. In the [National] Planning and Building Law—1965, Section 64 shall be marked (a) and shall be followed by:
(b) Where the district committee determined it was necessary to prepare an outline plan for the erection of a hospital within the local planning area, it shall direct the local committee to prepare such a plan within one month from the day that the request is made.

¹¹⁹ The 317th sitting of the Fifteenth Knesset, 12 June 2002.

¹²⁰ Proposed Bill No. 2998.

¹²¹ *Palestine Gazette* 1065, Supp. 1, p. 191.

¹²² *Sefer Hahukim*—1960, p. 57.

The explanatory notes state:

The towns of Taybeh, Umm al-Fahem, and Sakhnin have experienced an increase in population. This increase has created a gap between the size of the population and the medical services provided in these towns. The distance from these towns to existing hospitals is great, which results in loss of human life because of the time required to reach the hospital and because of the quality of medical treatment that was hampered.

In the debate on preliminary reading, MK Tibi explained that the Arab population needs medical services.¹²³ MK Tibi said that, while the bill relates to three sites for the building of hospitals, he is “willing to accept the Ministry of Health selecting one of the three sites to begin construction of a regional hospital that will serve the local population; that is the intent.” Minister of Justice Meir Sheetrit announced that the government opposed the bill, contending that it was sectoral, and that the problem should not be resolved by a statute but at the discretion of the Ministry of Health. In response to the contention that the bill was sectoral, MK Tibi said: “It is impossible to say that when it is Ashdod, for example, when the bill of MK Sofa Landver [Labor] is passed, it is not sectoral, but in Sakhnin it is sectoral.”¹²⁴

The bill was rejected by a vote of twenty-three to six, and was removed from the Knesset’s agenda.

7. On 17 June 2002, MKs Issam Makhoul, Muhammad Barakeh, and Tamar Gozansky (Hadash) submitted the *Proposed Basic Law: The Knesset (Amendment—Prohibition of Participation by List Inciting to Transfer) Law—2002*.¹²⁵ The bill would prevent a candidates’ list that incites to transfer from participating in Knesset elections. The bill proposes to add the words “and to transfer” to Section 7A(3) of the Basic Law: The Knesset, which states that incitement to racism is a basis for disqualifying a list from participating in elections; that is, the ground for disqualification

¹²³ The 259th sitting of the Fifteenth Knesset, 12 December 2001.

¹²⁴ Proposed Bill No. 1666: Proposed Erection of Hospital in Ashdod (Legislative Amendments) Law—2000. The bill was laid on the Knesset’s table on 29 March 2000, passed preliminary reading on 18 July 2001, first reading on 18 December 2001, and second and third readings on 23 January 2002. Forty MKs signed the bill, among them one Arab MK, ‘Abd al-Malek Dahamshe (United Arab List). The bill submitted by MK Tibi is identical in wording and explanatory notes, except for the locations of the hospitals. See Ashdod Hospital (Erection and Operation) Law—2002, *Sefer Hahukim*, Booklet 1827, p. 124.

¹²⁵ Proposed Bill No. 3859. The Hadash MKs simultaneously filed the Proposed Penal (Amendment—Exhorting for Transfer) Law—2002. The bill, laid on the Knesset’s table on 27 June 2002, provides that urging transfer (which is defined as expulsion—whether by consent or compulsion—of a group or parts of a group from its homeland, for reasons of national-ethnic origin) constitutes an offense punishable by law.

would read “incitement to racism and to transfer.”

In the explanatory notes, the bill’s sponsors wrote:

A new list, Moledet, was formed to run in the elections to the Twelfth Knesset.¹²⁶

The party ran on the slogan of transfer. The call for transfer is an open call for expulsion of the Palestinian Arab people from its homeland, and of the Arab nationals of Israel from their homeland and state. Moledet called, and continues to call for, implementation of the same objectives that were held by Kach, which was disqualified from running in Knesset elections. Recently, this call has been raised by other groups, including groups that are part of the government coalition. So that these and other groups will not hide behind slogans of the transfer kind, it is proposed to include in the section defining the kind of lists that are prohibited from running for the Knesset also those that call for transfer.

In the debate held in the Knesset plenum on preliminary reading, while MK Makhoul was presenting the bill, MK Binyamin Elon distributed leaflets in the plenum to MKs urging “transfer by consent.” The Arab MKs requested that the distribution stop, but the temporary Speaker for the session, MK David Tal (Shas), did not grant the request. In giving the reason for the government’s opposition to the bill, Minister of Justice Meir Sheetrit (Likud) said that the bill was “superfluous”.¹²⁷

“Transfer” is a term that has many meanings, some of which do not contradict the democratic nature of the state. For example, it is not obvious that a candidates’ list that supports voluntary exchange of population, or supports expulsion of nationals who were convicted of offenses against state security, are illegitimate in a democracy.

Following these comments, which created much rage among the Arab MKs, MK Makhoul said:¹²⁸

... I think that the minister’s comments proved how important a law like this is... If a list ran for elections in the France of today or in the Austria of Haider that called for expulsion of Jews and the transfer of Jews—even in this sense [referring to voluntary transfer—N.S.]—I would like to see the reaction in this house. This party, this list [the reference being Moledet—N.S.], which sits with you in the government and sat with you in the government, and that is the voice that sits with you in the government that once was the lunatic voice on the fringe of Israeli society and became a voice in the center of the Israeli government

¹²⁶ Moledet was formed by Rehavam Ze’evi, the Israeli Minister of Tourism, who was assassinated by Palestinians belonging to the Popular Front for the Liberation of Palestine in 2001. The present head of the party is MK Binyamin Elon.

¹²⁷ The 346th sitting of the Fifteenth Knesset, 23 October 2002.

¹²⁸ *Ibid.*

today, in the streets of Israel, in the universities of Israel—you accept, justify, and legitimate.

The bill was removed from the Knesset's agenda by a vote of fifty-one to twenty-three.

Knesset Resolutions

Lifting of immunity of MK Azmi Bishara (NDA)

On 10 June 2001, MK Azmi Bishara participated in a memorial ceremony for the late President of Syria, Hafez al-Assad, on the first anniversary of his death. At the ceremony, MK Bishara gave a political speech that caused outrage in Israel.¹²⁹ As a result, the Knesset held a meeting in plenary session on 20 June 2001 on the subject: "Proposals to the Agenda—Statements of Member of Knesset Azmi Bishara in the Presence of Terrorist Leaders during the Memorial Ceremony for former Syrian President Hafez al-Assad."¹³⁰

During the debate, MKs spoke harshly against MK Azmi Bishara and the other Arab MKs. MK Yitzhak Shaban (Shas) said: "Not only should MK Azmi Bishara be banned, but everyone who supports terrorist organizations should also be banned... It is our duty to ensure that he no longer remain in this house, and the sooner the better." MK Avraham Hirschson (Likud) said: "I think that I... and my colleagues who agree with me here, are so stupid, that we consent to this Member of Knesset serving as a Member of Knesset in the State of Israel one day after he made these comments." MK Nehama Ronen (Center) said: "I only think that Azmi Bishara and his party must be banned and not allowed to sit and take part in this house." MK Itzhak Gagula (Shas) said to MK Issam Makhoul (Hadash): "You are an enemy of Israel, you should be thrown out of here." MK Shaul Yahalom (National Religious Party) said: "... In our opinion, the act of Azmi Bishara, more accurately the act of the NDA parliamentary group, requires the legal authorities of the State of Israel to disband the NDA party. I announce, in the name of the National Religious Party parliamentary group, that we are requesting the Attorney General to take legal measures against the NDA, such that it will cease operating as a political party."¹³¹ MK Nissim Zeev (Shas) said that MK Bishara is "an extreme, crazy individual, whose hate for Israel is seared in his heart," and that "Azmi Bishara is a threat to democracy and to Israeli society." After the debate ended, the Knesset

¹²⁹ In a survey taken by the Dahaf Institute (Ms. Mina Zemach) that was published on 12 June 2001, two days after MK Bishara made his speech in Syria, eighty-four percent of Israeli Jews favored initiation of legal proceedings against Bishara, and seventy-seven percent supported legislation that would remove him from the Knesset. See *Yediot Aharonot*, 12 June 2001.

¹³⁰ The 213th sitting of the Fifteenth Knesset, 20 June 2001.

¹³¹ On 13 June 2001, the National Religious Party demanded that the Attorney General ban the NDA. It argued that the party comes within the definition of terrorist organization and that its acts, as reflected in the comments of MK Bishara, constitute treason, insurrection, and aid to Israel's enemies in their war against it. See *Walla website*, 13 June 2001.

decided, by a vote of fourteen to two, with two abstentions, to refer the matter to the House Committee.

The Attorney General demanded that MK Bishara's immunity be lifted for the specific charges in two indictments that he sought to file against him. The request was necessary because Israeli law grants MKs immunity from criminal prosecution and indictment except in instances in which the Knesset agrees to lift the member's immunity.¹³²

The indictments

The first indictment alleges that, by giving the two speeches—one in Umm al-Fahem, in Israel, on 5 June 2000, and the second in Kardaha, Syria, on 10 June 2001—Bishara committed the offense of supporting a terrorist organization (an offense pursuant to Section 4 of the Prevention of Terrorism Ordinance—1948). The indictment quotes the speech of MK Bishara, translated from the original Arabic to Hebrew, as follows:

The speech in Umm al-Fahem:

The Hezbollah won, and for the first time since 1967, we tasted the taste of victory. The Hezbollah has the right to be proud of its achievement and to humiliate Israel. Israel is trying now to improve its image around the world and is selling a false version as if it implemented UN Resolution 425, but it suffered defeat after defeat and was forced to leave South Lebanon. This is the truth. This is the first June 5th since 1967, which led to a change in the level of our morale, the first time that we see a glimpse of hope. If we would have learned a lesson from what happened in the "Nakba" catastrophe, the 1967 defeat would not have occurred... Lebanon, the weakest of the Arab states, presented a miniature model. If we look deeply into it, we can make the necessary conclusions for success and triumph—a clear goal and powerful will to win, and preparation of the necessary means to achieve this goal. Israel accused Syria and Iran of using Hezbollah for achieving their own interests, but this is not true. The Lebanese resistance forces were the ones who, for their own interest, took good advantage of Syria's and Iran's poor relations with Israel... and the Hezbollah grasped the mood in the Israeli street and made optimal use of it. It made sure that its guerilla war was well reported, and each of its successes greatly influenced the morale of

¹³² There are two kinds of immunity: Absolute immunity against prosecution (this immunity is referred to as "substantive"), which may not be lifted, and limited immunity (referred to as "debate" or "procedural"), which includes the imposition of restrictions on the manner in which an MK may be prosecuted. Procedural immunity also applies to those matters that do not fall within the substantive immunity, and applies only to the time in which the MK is serving in that capacity. Substantive immunity also applies after the MK has completed service as an MK. See A. Rubenstein and B. Medina, *supra* note 3, pp. 473-519.

the Israeli people, who were slowly losing patience due to the losses it suffered from Hezbollah.

The speech in Syria:

It is impossible to continue any further without expanding the space between a possibility of total war and the fact that submission is impossible. What characterizes the Sharon government is that after the triumph of the Lebanese “resistance” which benefited from this space that Syria has consistently been widening, between accepting the Israeli terms called in the name of a lasting total peace and the military option. This space helped the stubbornness and persistence and heroism of the Lebanese “resistance” leadership and fighters. But after the triumph of the “resistance” and after Geneva, and also after the failure of “Camp David,” an Israeli government has come and tried to narrow this space, so that there would be a choice of the kind: either accept the Israeli terms or total war. Therefore, it won’t be possible to continue with the third option, which is the option of “resistance,” unless this space is widened once again, so that the people can conduct a struggle and “resistance.” This space can be expanded only through a united and effective Arab political position in the international arena, and the time has surely arrived for it.

The second indictment alleges that MK Bishara unlawfully assisted Palestinian citizens in Israel to enter Syria to visit their families. He and his two parliamentary assistants were charged with assisting in the unlawful exit from Israel (an offense pursuant to Section 18 of the Emergency Regulations (Foreign Travel)—1948).

Consideration by the House Committee

On 25 September 2001 and 30 October 2001, the House Committee conducted hearings on the request of Attorney General Elyakim Rubinstein to lift the immunity of MK Bishara. During the hearing on 25 September 2001, MK Bishara said: “... I think that the NDA has been delegitimized, and I think that some of the members think that the problem is not the lifting of my immunity but the banning of the NDA.” MK Ze’ev Boim (Likud), chairman of the coalition, said: “A hundred percent.”¹³³

During the hearing on 30 October 2001, Prof. Claude Klein said that this is “the hardest case that has come before the Knesset since the Knesset was founded.”¹³⁴ MKs from the Right spoke harshly against MK Bishara. For example, MK Yisrael Katz (Likud) said: “He is an extremist of the Bin Laden

¹³³ Protocol No. 228 of the meeting of the Knesset’s House Committee, p. 55.

¹³⁴ Protocol No. 237 of the meeting of the Knesset’s House Committee, p. 3.

sort; it is forbidden that he be in the Knesset.” MK Boim added: “I think that lines have been crossed, borders have been traversed, and we must really take the necessary measures to establish borders. I also believe that if we do this, we will deter others.”¹³⁵

On 5 November 2001, the House Committee voted to lift MK Bishara’s immunity, as follows:¹³⁶

1. As regards the indictment relating to organizing the unlawful exit to Syria, the vote was fourteen to six, in favor of lifting Bishara’s immunity.
2. As regards the indictment relating to the statements made by MK Bishara, the vote was thirteen to seven, in favor of lifting his immunity.

The debate in the Knesset plenum

Following the decision of the House Committee the next day, the matter moved to the Knesset plenum for debate to lift the immunity of MK Bishara.¹³⁷ The debate began at 10:30 p.m., with very few MKs present. As a result, a number of MKs objected to such an important subject being debated in such a manner. MK Taleb El-Sana (United Arab List) said in this regard: “They... want do this at night like thieves in the night.” Regarding the substance of the matter, MK Muhammad Barakeh (Hadash) said: “The resolution to lift the immunity of Member of Knesset Azmi Bishara is a watershed in relations between the State of Israel and the Arab population, and represents a dangerous trend toward denying our legitimacy and representation.” MK Ze’ev Boim (Likud), chairman of the government coalition, addressed MK Bishara and said: “We are now intentionally creating this turmoil because we think that the time has come to do it. You did not begin protesting today against the State of Israel, against its founding, by making statements that are very democratic and liberal and very intellectual and academic, but you did not note that you are stretching and stretching and stretching the cord, and now the cord has essentially broken. This is exactly the point.” MK Michael Kleiner (Herut), who believed that the statements made by MK Bishara came within the substantive immunity granted to MKs, and thus held that other measures should be taken against Bishara, said: “I nevertheless will support this procedure, despite what I said, because I think that the vote here is a political vote, and I do not want, Heaven forbid, that abstaining [in the vote] be considered in any way agreement with the comments [that he made].” In response, MK Bishara said that an attempt was being made “to redraw the borders of the Zionist-Jewish democracy in the State of Israel,” and that an attempt was being made by “the Right to return to government over

¹³⁵ *Ibid.*, p. 34.

¹³⁶ Protocol No. 239 of the meeting of the Knesset’s House Committee, 5 November 2001, pp. 4-6.

¹³⁷ The 243rd sitting of the Fifteenth Knesset, 6 November 2001.

the body of Israel's Arab population.”

On 7 November 2001, the Knesset plenum voted by a large majority to lift Bishara's immunity, as follows:¹³⁸

1. As regards the indictment relating to organizing the unlawful exit to Syria, the vote was sixty-five in favor of lifting Bishara's immunity, twenty-four against, with two abstentions.
2. As regards the indictment relating to the statements made by MK Bishara, the vote was sixty-one in favor of lifting his immunity, thirty against, with two abstentions.

These votes enabled the filing of the two indictments against MK Bishara.

Precedent

MK Bishara's case marks the first time in the Knesset's history that immunity was lifted and an MK was criminally prosecuted because of political statements. Previously, the Knesset had lifted the immunity of a member for the alleged commission of regular criminal offenses such as white collar crime (corruption, etc.), as in the case of former Minister Aryeh Deri (Shas); or sex crimes, as occurred in the case of former Minister Itzhak Mordechai (Center); or assaulting a minor, as in the case of Minister MK Avigdor Lieberman (National Union-Yisrael Beiteinu).

In 1985, the Knesset lifted the immunity of an Arab MK, Muhammad Mia'ri (Progressive List for Peace), from search and detention, as well as limited his freedom of movement.¹³⁹ The pretext for the action was comments made by Mia'ri at a memorial ceremony for Fahed Kawasmeh, a former Mayor of al-Khalil and a member of the PLO Executive, held in East Jerusalem. It was alleged that in comments he made at the ceremony, Mia'ri identified with the PLO. The Supreme Court nullified the resolution on the grounds that it was *ultra vires* and lacked a proper factual basis. The Supreme Court emphasized that the Knesset is not empowered to act by imposing “quasi-punishment” for past acts of an MK, but may act only to prevent a future offense, where there is an evidentiary and factual basis indicating that real danger is liable to result from the potential act of an MK.¹⁴⁰

¹³⁸ The 244th sitting of the Fifteenth Knesset, 7 November 2001.

¹³⁹ “Resolution of the House Committee to Lift Immunity of Member of Knesset Muhammad Mia'ri,” 124th sitting of the Eleventh Knesset, 15 October 1985.

¹⁴⁰ H.C. 620/85, *Mia'ri, et. al. v. Speaker of the Knesset, et. al.*, Supr. Ct. Rpt. 41 (4) 169.

Restriction on freedom of movement of MK Ahmad Tibi (Ta'al)

On 30 April 2001, the House Committee debated the demand of MK Michael Eitan (Likud) to restrict MK Ahmad Tibi's freedom of movement granted to him pursuant to the Knesset Members (Immunity, Rights and Duties) Law—1951. Section 9(a) of the law states:

A direction prohibiting or restricting access to any place within the state other than private property shall not apply to a member of the Knesset unless the prohibition or restriction is motivated by considerations of state security or military secrecy.

MK Eitan contended that: "during the war in which the State of Israel is engaged against the terrorist organizations and the person who stands at their head, Member of Knesset Ahmad Tibi has been acting in every way possible to aid the enemy."¹⁴¹ The grounds for the request was MK Tibi's attempt, on 3 April 2002, to break through an Israeli army checkpoint to meet with the chairman of the Palestinian Authority, Yasser Arafat, who was barricaded in his compound during the Israeli military operation known as "Operation Defensive Shield." MK Eitan's original demand also included the lifting of MK Tibi's immunity from search of his home, his person, possessions, and papers, and also his immunity from detention. However, the Knesset's legal advisor, Anna Schneider, stated in her legal opinion of 23 April 2002, that only the Attorney General was empowered to request the lifting of immunity in these two matters; thus, MK Eitan, did not have the authority to submit a request, and the House Committee did not have the authority to consider and decide in these matters.¹⁴²

Consideration by the House Committee

The first hearing in the House Committee, held on 30 April 2002, was interrupted following a sharp confrontation between MKs from the Right and Arab MKs. During the hearing, MK Eliezer Cohen (National Union—Yisrael Beiteinu) said about MK Tibi: "He aids the enemy during war, and this is not just talk. In other countries, they would charge people with treason in such a matter."¹⁴³ Later, he turned to the Arab MKs and said to them: "You

¹⁴¹ See the letter of MK Eitan to MK Avraham Burg, Speaker of the Knesset, 4 April 2002.

¹⁴² Letter of Anna Schneider, the Knesset's legal advisor, to members of the House Committee, 23 April 2002, titled "Request of MK Michael Eitan to Lift the Immunity and Rights of Member of Knesset Ahmad Tibi."

¹⁴³ Protocol No. 300 of the meeting of the Knesset's House Committee, 30 April 2002, at p. 6.

¹⁴⁴ *Ibid.*, p. 12.

are collaborating with the enemy.”¹⁴⁴ MK Eitan said to the Arab MKs: “You murdered children at point-blank range.”¹⁴⁵ He also said:

I once again state that every person who acts to thwart the army’s intention, to hamper the army’s actions during war, is a traitor. A Member of Knesset who exploits his powers for those objectives is a traitor of even greater enormity...

He continued:

I again repeat: a person who acts in violation of army orders, against army objectives, against the war objectives, is a traitor. Period...

MK Eitan turned to the Arab MKs who were taking part in the hearing: “The Arab terror here in this room makes it impossible for me to speak.”¹⁴⁶

The House Committee held further hearings on this matter on 14, 21, 28 May 2002 and 24 June 2002.¹⁴⁷ The vote was held on 28 May 2002. Twelve committee members voted in favor of lifting MK Tibi’s immunity giving him the right to freedom of movement, and five members were opposed.

The House Committee then voted on the period of time for which the restriction would apply. The following resolutions were proposed: For one day, for a week, until the end of the sitting of the Knesset, for three months, until 31 December 2002, or until the end of the Fifteenth Knesset. By a vote of eleven to four, the Committee voted in favor of the last—the longest of all the proposed options.

The debate in the Knesset plenum

On 25 June 2002, the Knesset’s plenum debated the “Resolution of the House Committee to Revoke the Right of Freedom of Movement from Member of Knesset Ahmad Tibi, pursuant to Section 9(a) of the Knesset Members (Immunity, Rights and Duties) Law.”¹⁴⁸ The vote in the Knesset was divided in two. The first vote was held on the revocation of the right itself, and the second on the length of time that the revocation of the right would continue, i.e., until the end of the Fifteenth Knesset. The first vote was conducted by the normal electronic means for registering the members’ votes: twenty-nine voted in favor of revoking MK Tibi’s right to freedom of movement, and twenty-three opposed the resolution. The second vote was conducted orally, member after member, and the result was the same, twenty-nine to twenty-three.

¹⁴⁵ *Ibid.*, p. 14.

¹⁴⁶ *Ibid.*, p. 16.

¹⁴⁷ Protocol Nos. 306, 310, 314, and 326, respectively, of the said meetings of the Knesset’s House Committee.

¹⁴⁸ The 322nd sitting of the Fifteenth Knesset, 25 June 2002.

Previous cases

In three previous instances, the Knesset revoked the freedom of movement of MKs. The first occurred in 1985, when the Knesset revoked the freedom of movement of MK Meir Kahane, founder of Kach. On 21 January 1985, the House Committee approved the decision made by army officials to prevent Kahane from entering al-Khalil [Hebron] and al-Haram al-Ibrahimi [Tomb of the Patriarchs], and to remove him from there.¹⁴⁹ The army did not need the Knesset's approval to take these steps.

The second case resulted from a request submitted by MK Eitan and involved the immunity of MK Muhammad Mia'ri from search and detention, and as well as the revocation of his right to freedom of movement. The Knesset's decision was nullified, as mentioned above, by the Supreme Court.

The third case occurred on 6 January 1993, when the Knesset decided to deny MK Hashem Mahameed (then Hadash, United Arab List in the Fifteenth Knesset) his right to freedom of movement for a period of three months. The revocation followed the request of MKs Limor Livnat (Likud), Tzahi Hanegbi (Likud), and Moshe Peled (Tsomet). The basis for the request was MK Mahameed's participation at a gathering held in Gaza on 24 December 1992 to protest against the deportation of 415 Palestinians to Marj a-Zohor in Lebanon. MK Mahameed was quoted as saying at the gathering: "As long as the occupation continues, the revolution will continue, the intifada will continue, and not only with stones."¹⁵⁰

Following the decision of the House Committee to recommend the revocation of MK Tibi's freedom of movement, and before the matter was debated in the plenum, Prof. Ze'ev Segal, a legal commentator for *Ha'aretz*, wrote:¹⁵¹

The authority enabling the revocation of immunity from detention and search and the special freedom of movement granted to a Member of Knesset should have been rescinded some time ago, or at least become a dead letter. Placing quasi-judicial powers, such as the revocation of immunity, in the hands of politicians is inconsistent with the elemental principles of separation of powers. When the authority is exercised without a meaningful filtering mechanism, such as in the case of formulating an indictment by the attorney general, not only is the individual MK harmed; the image of the legislature, whose members become judges in a political court, is also harmed.

¹⁴⁹ See A. Rubenstein and B. Medina, *supra* note 3, p. 494.

¹⁵⁰ See "Resolution of the House Committee to Revoke the Right of Member of Knesset H. Mahameed, pursuant to Section 9(a) of the Knesset Members (Immunity, Rights and Duties) Law—1951," the 48th sitting of the Thirteenth Knesset, 5 January 1993.

¹⁵¹ Ze'ev Segal, "MKs Acting as Judges," *Ha'aretz*, 13 June 2002.

Removal of MK Issam Makhoul (Hadash) from Knesset debate

On 4 April 2002, the Knesset met in special session during its recess. During the session, MK Issam Makhoul called out: "Where is the prime minister? Where is the master of your murderers?" The reference was to Ariel Sharon. After being called to order three times by the Speaker of the session, MK Rahamim Melloul (Shas), MK Makhoul was removed from the plenum hall. Before leaving the hall, MK Makhoul raised his hand in Nazi salute and shouted, "Heil Sharon. War criminals, that is what you are."¹⁵² In the next meeting of the Knesset on 8 April 2002, MK Makhoul apologized for his use of the salute and said that he did not intend to offend Holocaust survivors.¹⁵³

The Knesset's Ethics Committee conducted a hearing on the matter following complaints made by the Speaker of the Knesset MK Avraham Burg (Labor) and MK Ze'ev Boim (Likud), the coalition chairman, on 9 April 2002 and 7 April 2002, respectively, against MK Makhoul.¹⁵⁴

MK Makhoul was summoned to appear before the Ethics Committee on 21 April 2002. He repeated his apology, as follows:

In retrospect, I realized that the salute made it impossible for me to transmit the message that I wanted to give, that Israel under Sharon's rule is located on the route towards war crimes and fascism, while at the same meeting, Knesset members are kept in the dark, and for months the media operates not as media but as propaganda. I think that all the signs are present that this government is moving along a dangerous route and that warning must be given. I now know that this message did not go across...

On 30 April 2002, the Ethics Committee decided as follows:¹⁵⁵

Pursuant to its authority under Section 70(c) of the Knesset's Rules of Procedure, the Ethics Committee decided that, in light of the severity of the act of MK Issam

¹⁵² "The War in the Territories—Danger of Deterioration into a Comprehensive War," the 295th sitting of the Fifteenth Knesset, 4 April 2002.

¹⁵³ The 296th sitting of the Fifteenth Knesset, 8 April 2002.

¹⁵⁴ *Ha'aretz*, 1 May 2002.

¹⁵⁵ See "Decision of the Ethics Committee in the Matter of the Request of the Speaker of the Knesset pursuant to Section 70 of the Knesset's Rules of Procedure and in the Matter of the Complaint of MK Ze'ev Boim against MK Issam Makhoul," 30 April 2002. Hearings of the Ethics Committee are closed, in accordance with the Knesset's Rules of Procedure, so its protocols are not available for public review. Section 21 of Chapter G of the Rules of Ethics for Members of Knesset, in the Knesset's Rules of Procedure, states: "Ethics procedures against a member of the Knesset, and the deliberations of the Ethics Committee thereof, and the documents, protocols and decisions related to them, shall be confidential; attendance at the deliberations is not allowed, except with the Committee's permission; they [the said deliberations and materials] shall not be published, except with the Committee's written permission, and in accordance with the conditions set by the Committee."

Makhoul, and notwithstanding the fact that he apologized, he is removed for a period of three sitting days, as stated in Section 70(c)(3) of the Knesset's Rules of Procedure. It is hereby clarified that the said removal does not restrict MK Makhoul from coming to the Knesset on the days in which he is removed from its sittings.

It should be mentioned that on the day that the Ethics Committee decided upon MK Makhoul's punishment, the Knesset approved the Knesset Members (Immunity, Rights and Duties) (Amendment No. 28) Law—2002, on first reading. The bill passed its second and third readings on 27 May 2002. The amendment empowered the Ethics Committee to impose harsher punishments than were previously allowed.

Prior to the amendment, Section 31D(d) set the following punishments that the Ethics Committee was allowed to impose on a Member of Knesset:

1. Comment;
2. Warning;
3. Censure;
4. Removal from meetings of the Knesset's plenum and committees for a period not to exceed six months, provided that the Member of Knesset may enter the meeting only for the purpose of voting.

The amendment adds the following punishments:¹⁵⁶

- (3a) Severe censure;
- (3b) Revocation of right to be given the right to speak in the Knesset's plenum or committees, in all or in some of them, for a period that shall not exceed ten meeting days;
- (3c) Restriction on his activity as a Member of Knesset, including prohibition on submitting bills, proposals to the agenda, parliamentary queries, and the like, except for restrictions on the right to vote, all as the committee shall determine and for a period that shall be set, provided that the said period shall not exceed the period that remains until the end of the said term of the Knesset.

¹⁵⁶ The proposed bill and explanatory notes were published in *Hatz'aot Huk*, Booklet 3090, 11 March 2002, p. 359. The amendment was published in *Sefer Hahukim*—2002, Booklet 1847, 27 May 2002.

Removal of MK Muhammad Barakeh (Hadash) from the Knesset podium

On 28 October 2002, MK Muhammad Barakeh stood at the Knesset's podium to present a no-confidence motion that his party, Hadash, filed against Ariel Sharon's government. In his comments, MK Barakeh referred to Sharon as the "head of the blood-drenched government." MK Yigal Bibi (National Religious Party), who was in charge of the session as deputy speaker of the Knesset, demanded that he retract the statement. The dispute continued, as follows:¹⁵⁷

Barakeh: I said what I said and will continue according to the written draft.

Bibi: I hope that you retract [the statement]. I will not let you utter another sentence like that so long as I am conducting the session... I am not willing to hear such a sentence.

Barakeh: Mr. Speaker, take my paper, write me something else, and I'll read it. There is a limit... This is what I think as a Member of Knesset.

Bibi: Blood-drenched government, I am not willing to hear it.

Barakeh: You can hear it or not hear it, that is your right. You can have somebody replace you, but I will say what I think.

Bibi: If you say another sentence like that, I will remove you from the podium.

Barakeh: ... Mr. Speaker, I request that you perform your function as Speaker of the session in a fair manner and not dictate to me what to say and what not to say.

Bibi: Sir, you will retract your comments or I will remove you from the podium now.

Barakeh: I will not retract my comments.

...

Bibi: Get down from the podium!!

...

Barakeh: What are you saying?

MK Bibi then summoned the Knesset sergeants-at-arms, while MK Barakeh continued to speak, saying that he could not be removed from the podium when he was making a no-confidence motion. MK Bibi responded: "You will not make terror here... there will not be terror here." Minister Dan Naveh (Likud), who ascended to the podium to speak after Barakeh, called to the Arab MKs: "This place is not the Mukata [Yasser Arafat's offices] in Ramallah, this is the Knesset. You will not conduct it with hooliganism and violence." Because of the great commotion in the Knesset, MK Bibi was forced to cease the debate in the plenum and hold consultations in the office of the Speaker of the

¹⁵⁷ The 349th sitting of the Fifteenth Knesset, 28 October 2002.

Knesset. As a result of the consultations, it was decided to allow MK Barakeh to return to the podium to complete his comments, in which he would not make contemptuous remarks against the government and the Prime Minister. When the debate was renewed, the no-confidence motion was defeated by a large majority. MK Bibi admitted: "I may have erred."¹⁵⁸

In its editorial on 30 October 2002, under the headline "Discrimination in the Knesset," *Ma'ariv* wrote the following:¹⁵⁹

... It is easy to assume that, if a Jewish MK had made the comments that enraged Yigal Bibi so much, he would not have taken the step that he took against Member of Knesset Barakeh. Expressions of this kind were made many times from the podium of the Knesset, and this step was not taken... The Speaker of the Knesset is not a censor who may shut the mouths of MKs addressing the Knesset, and force them from the podium, or even demand that they moderate their remarks, except in extraordinary circumstances, which was not the case with the statement made by MK Barakeh... The deputies to the heads of the Knesset are selected according to a parliamentary group ratio; however, it is desirable that special care be taken to ensure that the position is given only to persons with good judgment, who are able to refrain from peculiar outbursts... Yigal Bibi, himself a Member of Knesset who does not refrain from using a sharp tongue and often agitates the plenum and the Israeli public with remarks that are provocative and sometimes unacceptable in their extremity, acted rigidly against others in a manner that was never employed against him, and used his position to do an intolerable act that damaged the very soul of democracy...¹⁶⁰

¹⁵⁸ *Yediot Aharonot*, 29 October 2002; *Ma'ariv*, 29 October 2002.

¹⁵⁹ Editorial, "Discrimination in the Knesset," *Ma'ariv*, 30 October 2002.

¹⁶⁰ For additional details on the restrictions placed on the political participation rights of the Arab leadership, police investigations, and physical assaults on Arab MKs, see The Arab Association for Human Rights, *Conditions of Citizenship and Restricted Political Participation* (October 2002), and *Silencing Dissent—A Report of the Violation of Political Rights of the Arab Parties in Israel* (October 2002). The two reports are available at www.arabhra.org.

Central Elections Committee

The Central Elections Committee (CEC) is a political body, established by statute, which is responsible for carrying out the elections for the Knesset. Section 15(a) of the Knesset and Prime Minister Elections Law [Consolidated Version]—1969 states that a CEC will be established within 60 days from the day on which each new Knesset convenes. Section 16 of the statute sets forth the method by which the CEC will be composed of representatives of the outgoing Knesset, and Section 17 provides that the chairperson of the CEC will be a justice of the Supreme Court. Pursuant to the law, the candidates' lists for the elections are submitted to the CEC, which ensures compliance with the relevant statutory procedures. One of the main authorities given to the CEC is the power to disqualify candidates and political party lists from competing in the elections, if one-third of the Committee's members sign a request for disqualification (see above a discussion regarding the 2002 amendment to this statute). The Supreme Court must approve a decision to disqualify an individual candidate, whereas a political party list disqualified by the CEC may appeal the decision to the Supreme Court.

The CEC convened in the run-up to the elections for the Sixteenth Knesset. It was composed of 42 members: Supreme Court Justice Mishael Heshin (chairperson of the committee) and 41 representatives of the political parties in the outgoing Fifteenth Knesset. There were eight representatives of the Labor party, six Likud, five Shas, three Meretz, two Shinui, two Center, two National Union, two Yahadut Hatorah, and one each for all of the remaining parties.

Several applications were submitted to the CEC to disqualify the candidacies of Arab MKs and political party lists representing the Arab public. The following disqualification requests were submitted to the CEC:¹⁶¹

1. Two requests to disqualify Baruch Marzel, candidate no. 2 on the extreme right-wing Herut list and a leader of the banned Kach movement following Kahane's death. The requests were submitted by the Attorney General and the Labor party. On 29 December 2002, the CEC rejected the requests, and thus approved Marzel's candidacy on the Herut list, by a vote of 21 to 18. Justice Heshin voted to disqualify Marzel.
2. A request to disqualify the Herut party, submitted by MK Ophir Pines-Paz, Secretary General of the Labor party. On 29 December 2002, the Committee rejected the request by a vote of 22 to nine, with six members abstaining, including Justice Heshin.
3. A request to disqualify MK 'Abd al-Malek Dahamshe and the United

¹⁶¹ The protocols of the hearings and the decisions of the Central Elections Committee appear on the Knesset's website, at www.knesset.gov.il/elections16/heb/protocols/menu.htm [in Hebrew].

Arab List that he leads was submitted by MK Avigdor Lieberman (Yisrael Beitenu). The CEC rejected the request on 30 December 2002 by a vote of 21 to nine, with three abstentions.

4. A request to disqualify the joint Hadash—Ta-al list was submitted by MK Michael Kleiner (Herut). The request was rejected on 30 December 2002, by a vote of 27 to one, with nine abstentions.
5. A request to disqualify MK Ahmad Tibi (Ta-al), submitted by the Likud party, through MK Michael Eitan. On 30 December 2002, by a vote of 21 to 18, with two abstentions, the CEC disqualified Tibi from running in the elections.
6. A request to disqualify the NDA and MK Azmi Bishara was submitted by MK Yisrael Katz (Likud), MK Avigdor Lieberman (Yisrael Beitenu), and the National Union. The Attorney General and Herut, through MK Michael Kleiner, submitted a request to disqualify the NDA only. The CEC decided on 31 December 2002 to disqualify MK Bishara, by a vote of 22 to 19. The CEC also disqualified the NDA, by a vote of 21 to 20.¹⁶²

All the requests to disqualify the Arab candidates and the Arab parties were based on the 2002 amendments to Section 7A of the Basic Law: The Knesset, namely, “rejection of the existence of the State of Israel as a Jewish and democratic state,” and “support for armed struggle of an enemy state or of a terrorist organization against the State of Israel.” Of special interest was the unprecedented action taken by Attorney General Elyakim Rubinstein in submitting requests to disqualify individual candidates and political parties. His requests were directed against Marzel and against the NDA.¹⁶³ In the request to disqualify the NDA, Rubinstein relied on a report of a General Security Services (GSS) agent referred to as “Nadav.”¹⁶⁴ The Attorney General

¹⁶² Adalah: The Legal Center for Arab Minority Rights in Israel represented all of the Arab MKs and the political party lists that represent the Arab public before the CEC. For more details, including the reply briefs submitted on their behalf to the CEC, see Adalah’s website: www.adalah.org. It should also be mentioned that following the disqualification of MKs Tibi and Bishara and the NDA party, the press reported that the government intended to ban the extra-parliamentary Islamic movement, headed by Sheikh Ra’ed Salah, and declare it a terrorist organization. On the day that the NDA and MK Bishara were disqualified, the police questioned the leader of the Islamic movement and his deputy. See *Yediot Aharonot*, 1 January 2003.

¹⁶³ As soon as the Attorney General announced his intention to seek disqualification of the NDA, the party announced that it was starting an international campaign against the action. *Ha’aretz*, 19 December 2002. In an interview, MK Bishara contended that disqualification of the NDA would constitute an historic break between the Arab population and the State of Israel. See Ali Waked, “Bishara: My Disqualification will Cause Historic Break,” *Ynet*, 25 December 2002.

¹⁶⁴ *Ma’ariv* published the main elements of the GSS report on 20 December 2002. The headline on the first and second page was “GSS: NDA Activists Liable to Commit Terrorist Attacks.” On 22 December 2002, the NDA published a full-page ad in *Ha’aretz* aimed at the Israeli Jewish public that responded to the contentions of the Attorney General and the GSS, titled “Notice: Elyakim Rubinstein versus Democracy.”

did not recommend that MKs Dahamshe and Tibi and the United Arab List and Hadash—Ta-al parties, respectively, be disqualified.¹⁶⁵

Submission of the disqualification requests led to an intense public debate. At first, the public and even liberal and left-wing groups, supported the disqualification requests against the Arab MKs and political parties. Support waned among the Left, apparently, when it realized that the image of Israel as a democratic state was being tarnished. The Left also feared losing votes if Arab citizens of Israel would decide to boycott the elections. At the last moment, members of the left-of-center political parties on the CEC switched positions and voted with Justice Heshin against the disqualification of the Arab MKs and lists.

The principal argument made by those favoring disqualification was that a democracy must defend itself against individuals and groups seeking to undermine it. A columnist for *Ma'ariv* contended that: "In cases where we are talking not about a deviant opinion, but about the open and explicit encouragement of violence and terror, it is not a matter of opinion. It is a cancer that must be excised." This is MK Bishara's case, he contended, so he must be removed from the Knesset.¹⁶⁶

An editorial published by the liberal *Ha'aretz* supported the disqualification of MK Bishara even if it would result in a lower turnout of Arab voters in the elections:

There is no doubt that Bishara is treading the thin line between legitimate and illegitimate politics, crossing it at times, as he did—publicly and provocatively—at the funeral of Syrian president Hafez al-Assad... It is hard to say this, especially against the backdrop of extreme politicians who are hostile to the Arab minority in Israel, but if the allegations are confirmed, Bishara will probably not be allowed to exercise the right to be elected to the Israeli legislature. Such disqualification of Bishara might stir up bitterness in parts of the Arab sector and could keep some Israeli Arabs away from the ballot boxes. Hopefully, the Arab sector will understand that under such circumstances, Israeli democracy has no choice but to defend itself.¹⁶⁷

The *Ha'aretz* journalist Ari Shavit stated that, although the disqualification of Bishara is dangerous, "it would be no less dangerous if the Israeli democratic system were to allow Bishara to continue fanning the flames he's been fueling

¹⁶⁵ See the protocols of the CEC's hearings, *supra* footnote 161. See also *Ma'ariv*, 18 December 2002; *Yediot Aharonot*, 18 December 2002; and *Ha'aretz*, 18 and 19 December 2002.

¹⁶⁶ Ben Dror Yemini, "Blindness from the Right and Left," *Ma'ariv*, 5 January 2003.

¹⁶⁷ Editorial, "Limits on the Right to be Elected," *Ha'aretz English Edition*, 22 December 2002.

¹⁶⁸ Ari Shavit, "Between Democracy and Nasserism," *Ha'aretz*, 6 January 2003. Also in *Ha'aretz* that day, a full-page petition was published that included the names of some 300 Jewish and Arab public figures, academics and activists, and 30 Jewish and Arab organizations in Israel.>>

in recent years.”¹⁶⁸

The journalist and broadcaster Yaron London, who writes a column in *Yediot Aharonot*, compared the cases of MKs Bishara and Tibi to the case of the young American who fought with the Taliban forces. London wrote:

If Israel were to define traitors according to the American criterion and if we had capital punishment, one would assume that the prosecution would act to return the souls of the two to their creator.¹⁶⁹

The opponents of disqualification of MKs Bishara and Tibi challenged the “democracy on the defensive” argument. Dr. Aeyal Gross, who teaches constitutional law and international law at Tel Aviv University, responded to the previously mentioned *Ha’aretz* editorial:

What distorts the debate on democracy defending itself in Israel is the presentation of matters as if a normal democracy exists, and that it is legitimate for the democracy to ban from politics those persons who threaten it, such as Bishara. This presentation of the situation ignores the fact that, in Israel, the normal situation is not one of democracy based on civil equality, but of prolonged discrimination against the Arabs in Israel and an occupation that has turned into apartheid ... It isn’t democracy that Israel is trying to defend, but the hierarchical, ethnic government that it established. In such a situation, does the threat to democracy come from those who want to continue this regime, or from those who seek to change it and ensure a state that treats all its citizens equally?¹⁷⁰

The opponents of disqualification also argued that the Attorney General was driven by his ideological-political opinion against a “state of all its citizens,” the position represented by MK Bishara and the NDA. They also argued that the disqualification would alienate the Arab minority and increase its sense of political powerlessness, resulting in a boycott of the elections.¹⁷¹ The

<<The petition, titled “No to Establishment of Apartheid Regime in Israel,” announced that a demonstration would be held opposite the Supreme Court building during the hearings on the CEC decisions. The organizations and the High Follow-up Committee for the Arab Citizens in Israel initiated the petition. The protest drew 600 demonstrators. See *Ha’aretz*, 8 January 2003.

¹⁶⁹ Yaron London, “What is Treason and What is a Traitor,” *Ynet*, 27 December 2002. In another article, London wrote that: “The Bishara case harms Jewish and Arab consciousness ... Talented intellectuals like Bishara and Tibi are chronic gamblers... Without diminishing the responsibility of the Jews for the relations between the two people, I state that behavior of several of the Arab public’s leaders is liable to bring about a wave of Palestinian exiles.” Yaron London, “Two Comments on Azmi Bishara,” *Yediot Aharonot* (Twenty-four Hours Supplement), 2 January 2003.

¹⁷⁰ Aeyal Gross, “Where is the Democracy Here,” *Ha’aretz*, 24 December 2002.

¹⁷¹ Nimer Sultany, “The Attorney General’s Smoke Screen,” *Ha’aretz*, 30 December 2002. In comparison, the legal affairs commentator of *Ha’aretz* argued that the Attorney General’s request to the CEC was legitimate because the Attorney General represents the public interest.>>

former minister and past leader of Meretz, Shulamit Aloni, sharply criticized the Attorney General's decision to seek the disqualification of the NDA. She contended that he was debasing Israel's democracy and she called for his dismissal before he turns "us, with his inclinations and preferences, into a pariah among peoples." Aloni wrote further that:

We are taking giant steps toward being an ethnocentric state that denies fundamental rights to citizens who are not Jewish and builds a partition of apartheid that separates the citizens of the state... Unlike every democracy, a tyranny by the majority apparently exists in Israel.¹⁷²

Many of the commentators used the term "apartheid" to explain the nature of the government created in Israel, as illustrated by the disqualification of Arab candidates and by other actions to drive the Arab minority out of Israeli politics.

After the disqualification of MK Tibi and the expected disqualification of MK Bishara, the journalist Ofer Shelach wrote that:

The Supreme Court is still liable to overturn the decision, but the message has already gone out: for the Jewish political system, representatives of the Arab public are illegitimate. The desires and frustrations of one out of five Israeli citizens do not have to find expression in parliament, because we are now tired of this whole parliamentary notion. The pretension of the democratic state is no longer necessary because in the era without restraints, no one is putting on airs. And if a fire breaks out, so be it. We don't care.¹⁷³

Others used the term "fascism" to describe the situation. For example, it was argued that the corruption in the Israeli administration; the criminal elements who bought their way into the governing party, the Likud; the racism; and the silencing of opponents of the government, all testify to the fascism that is pacing along the streets of Israel.¹⁷⁴

Following the decisions to disqualify MK Tibi and not to disqualify Marzel, an editorial in *Ha'aretz* called for a change in the statute, whereby the hearing and decision on disqualifying political parties and candidates would be given to a judicial forum rather than to the CEC. The editorial argued that the CEC had become an unrestrained political body that failed to take into account the

<<See Ze'ev Segal, "Legitimate Initiative of the Attorney General," *Ha'aretz*, 20 December 2002. The journalist B. Michael wrote in his weekly column that the Attorney General ignored the Jewish MKs who incite to racism. B. Michael, "Now He Really Deserves it," *Yediot Aharonot* (Weekend Supplement), 20 December 2002.

¹⁷² Shulamit Aloni, "Tyranny of the Majority," *Ynet*, 30 December 2002.

¹⁷³ Ofer Shelach, "Era without Restraints," *Yediot Aharonot*, 31 December 2002.

¹⁷⁴ David Enoch, "Disappearing Democracy," *Ha'aretz*, 1 January 2003.

¹⁷⁵ Editorial, "Committee without Politicians," *Ha'aretz*, 1 January 2003.

fundamental principles of Israeli parliamentary practice.¹⁷⁵

Some critics who spoke out on the subject warned that the CEC's decision to disqualify MK Bishara and the NDA was an attempt to force the Zionist ideology of the state onto Arab citizens of Israel, and to turn the Knesset into a "Jewish parliament." The disqualification provided reason not only for Arab citizens of Israel to boycott the elections, but also to internationalize the question of relations between the state and the Arab minority.¹⁷⁶

The journalist Uzi Benziman wrote:

No one in the Arab sector accepts the Jewish nature of the state. Not one Arab is a Zionist. The Israeli Arabs are citizens of the state as a result of chance fate, which left them within its borders after the War of Independence [War of 1948]. They did not come to the state; the state came to them... From a vanquished population, humiliated in the face of the military administration [1948-1966] and Mapai [the parent party of the current Labor party] functionaries, the Arab public and its leaders became a consolidated, organized, and vocal national minority that demanded its rights. This, too, was a result of the Six Day War [June 1967]. The Israeli Arabs will continue to pester the Jewish majority because they are aware of the fundamental contradiction between the definition of Israel as a Jewish state and its declaration that Israel is a democratic state.¹⁷⁷

Other opponents noted the hypocrisy of the Israeli Left and its role in oppressing the Arab minority:

It [the Zionist Left] always excluded Arabs from participating in Israeli governments, from participating in the peace movements... The Zionist Left was always afraid of identification between it and Arab Israelis, it feared the Right and it feared the Jewish masses, fearing that if they saw Arabs taking part, they would never vote for it. The Zionist Left, represented now by Meretz and the Labor party, played the game that the Right wanted it to play. Together, one by violence and the other by paying lip service, shoved out Arab Israelis, and now that the shove was more brutal and humiliating than ever before, the Zionist Left

¹⁷⁶ Nadim Rouhana, "Jewish Parliament," *Ha'aretz*, 7 January 2003.

¹⁷⁷ Uzi Benziman, "The Separation Fence is Already Here," *Ha'aretz*, 3 January 2003. The same issue of *Ha'aretz* contained three ads that were placed by Israeli human rights organizations and groups from the liberal Left (Peace Now and the Peace Bloc). The ads noted the groups' opposition to the disqualification of the Arab candidates and lists, and made a call to "save the democracy." The ads also called on the public to attend a demonstration in Tel Aviv on 5 January 2003 and in Jerusalem, opposite the Prime Minister's residence, the next day. On this activity and another meeting of Jewish and Arab leaders and activists held by the High Follow-up Committee for the Arab Citizens in Israel, see Ariyeh Dayan, "Disqualification of Arabs, the Left Believes, Intended to Disqualify Us from Government," *Ha'aretz*, 8 January 2003. Dayan stated that the CEC's decisions unintentionally led to a renewal of cooperation between the Jewish Left and the Arab sector. The moderate Jewish Left divorced itself from the Arab minority in Israel following the protests of October 2000.

cannot bask in its innocence that its representatives on the Elections Committee voted against disqualification.¹⁷⁸

Some opponents of disqualification spoke out for utilitarian reasons or to display a proper image, and not to safeguard democracy or to protect the Arab minority. For example, the journalist and television broadcaster Dan Margalit, published an open letter in *Ma'ariv* to the justices of the Supreme Court, requesting that they overrule the disqualification "with a heavy heart," and ignore the "damage" and "harm" that the Arab candidates cause to Israel. He argued that the Supreme Court should take the action to protect "our important asset in the enlightened world, that Israel is the only democracy in the Middle East." According to Margalit:

The Likud acted to disqualify Arab candidates for extraneous reasons, all of them made in bad faith. It wants the public to deal with the expulsion of Bishara and Tibi from the Knesset and are not interested in a police investigation of its corrupt members who penetrated into the [Knesset] plenum; that the Arabs boycott the election, and thus weaken the opposition and strengthen the Right."¹⁷⁹

Prof. Amnon Rubinstein, a legal scholar and former Meretz MK, stated that disqualification of the lists must be the last resort in order to prevent the likely possibility of endangering the regime. In his opinion, Israel's democracy is strong enough to cope with the most irritating and abhorrent phenomena.¹⁸⁰

On 6 January 2003, *Ha'aretz* changed its previous opinion and stated in an editorial:

In these circumstances [the candidates' denial that they made the comments on which the requests for disqualification were based], the statements they made to the Central Elections Committee and the broad public significance of the disqualification should be considered. If their comments are not dangerously close to the line justifying banning them from the legislature, in such circumstances there is reason to give these candidates [Bishara, Tibi, and Marzel] an opportunity to take part in the democratic game.¹⁸¹

The interesting point here is that *Ha'aretz* was aware of the public significance of the disqualification in its earlier editorial, which it published on 22 December 2002, but it hoped that the Arab public would nevertheless understand the action of "democracy on the defensive" that now became "democracy in action"

¹⁷⁸ Nir Baram, "Mickey [Eitan] is not Alone," *Ma'ariv* (Today Section), 5 January 2003.

¹⁷⁹ Dan Margalit, "Only Aharon Barak [Chief Justice of the Supreme Court] Can," *Ma'ariv* (Weekend Supplement), 3 January 2003. See also Sami Smooha, "Collective Punishment," *Yediot Aharonot*, 1 January 2003.

¹⁸⁰ Amnon Rubinstein, "Banning is the Last Resort," *Ha'aretz*, 7 January 2003.

¹⁸¹ Editorial, "Democracy in Action," *Ha'aretz*, 6 January 2003.

¹⁸² On 10 January 2003, in an editorial titled "A Just and Wise Decision," *Ha'aretz* welcomed>>

to cope with the situation.¹⁸²

On 7 January 2003, an expanded eleven-justice panel of the Supreme Court reviewed the decisions of the CEC to disqualify MK Bishara and MK Tibi as individual candidates. The Court also heard the NDA appeal against its disqualification, and the appeal by the Labor party and others against the CEC's decision to permit Marzel to run in the elections. The Supreme Court delivered its decisions, without setting forth reasons, on 9 January 2003. The Court overruled the decisions of the CEC to disqualify MK Tibi (unanimously), and MK Bishara and the NDA (by vote of seven to four). The Court upheld the CEC's decision to allow Marzel to run in the elections.¹⁸³

Following the Supreme Court's rulings to cancel the decisions of the CEC, one writer proposed a political and social boycott as a way to cope with the "radicalism of the struggle of the Arab minority against the Jewish state," rather than to disqualify candidates. For example, he proposed that MKs leave the Knesset plenum when MK Bishara speaks, and for public bodies not to provide a stage for his opinions.¹⁸⁴

<<the Supreme Court's decisions regarding the elections disqualification cases. On the same day, the legal affairs commentator wrote that the Supreme Court's decisions emasculate Section 7A of the Basic Law: The Knesset. Ze'ev Segal, "Democracy in Action Preferable to Democracy on the Defensive," *Ha'aretz*, 10 January 2003.

¹⁸³ See Elections Approval 11280/02, *Central Elections Committee for the Sixteenth Knesset v. MK Ahmad Tibi*; Elections Approval 50/03, *Central Elections Committee for the Sixteenth Knesset v. MK Azmi Bishara*; Elections Appeal 131/03, *National Democratic Assembly v. Central Elections Committee for the Sixteenth Knesset*; and Elections Appeal 55/03 and 85/03, *MK Ophir Pines-Paz, et. al. v. Baruch Marzel, et. al.* Adalah: The Legal Center for Arab Minority Rights in Israel represented MKs Tibi and Bishara and the NDA before the Supreme Court.

¹⁸⁴ Dan Schueftan, "Public Battle, not Disqualification," *Yediot Aharonot* (Twenty-four Hours Supplement), 12 January 2003.

Chapter 2

GOVERNMENT POLICY

Introduction

During the time period under review in this report, two Israeli governments were in office: The Labor-party led government of Ehud Barak (6 July 1999 to 7 March 2001), followed by the national unity government of Ariel Sharon. This chapter discusses decisions made by both the government and government ministries that clearly reflect the state's treatment of the Palestinian minority in Israel.

The decisions reflect the deep involvement of the General Security Services (GSS, also known as the Shabak or the Shin Bet), which is under the administrative control of the Prime Minister's Office. The GSS appears to dictate central policy on many matters related to Palestinian citizens of Israel, a policy that conceptualizes Arabs as a security risk.

This chapter also shows that land plays a crucial role in the dispute between the state and the Palestinian minority, despite the 54 years that have passed since the founding of the state and notwithstanding the systematic expropriation of most of the land belonging to Arab owners. The state's objective has been, and continues to be, to occupy and Judaize the space, turning the Arabs into a minority in each and every area.

Involvement of the GSS in the Education of the Palestinian Minority

When the military administration ended in 1966, the methods for controlling and overseeing the Arab minority changed. The GSS became the primary body involved in these tasks. The previous chapter illustrated how the GSS monitors Arab political parties and political leaders and seeks to take part in the political sphere. For example, recall that the GSS provided opinions that supported the Attorney General's request to disqualify the National Democratic Assembly (NDA).

On 6 December 2001, *Ha'aretz* confirmed what the Palestinian minority had contended for years: The deputy director for Arab education in the Ministry of Education is a GSS agent. The involvement of the GSS in this matter was clearly intended to control the Palestinian minority and to oversee it by means of one of the most important tools in modern states: The educational system. Of course, the state operates the educational system very differently for Jewish schools. Because of the importance of this subject, the article in *Ha'aretz* is quoted here at length.¹

Within the Education Ministry, he is known as "Yitzhak Cohen the Arab," in an effort to distinguish him from his namesake, the head of the ministry's pedagogical administration. His official position is deputy director for Arab education. But unlike all the other senior ministry officials, Yitzhak Cohen has no educational background. The Shin Bet parachuted him into the ministry 10 years ago for one purpose—to prevent Arab teachers from being hired without the security establishment's approval.

Cohen is chairman of the appointments committee for the Arab educational system. Without his approval—which is based on the Shin Bet's opinion—no teacher, principal, or supervisor can be appointed to an Arab school.

Cohen's role as the Shin Bet's long arm in the ministry is a remnant of bygone days. Until the mid-1960s, Arab Israelis were under military rule, and when the military administration was abolished, the security services continued to keep an eye on its educational network. Through Cohen, the Shin Bet can bar the employment of teachers or principals suspected of undermining national security. In the 1990s, two education ministers from Meretz, Shulamit Aloni and Amnon Rubinstein, unsuccessfully tried to remove Cohen...

Shimshon Shoshani, who served as director-general of the ministry under Aloni and Rubinstein, said that until 1995, Cohen received his salary directly from the Shin Bet. He was then made an employee of the ministry, but the Shin Bet continued to send him reports on all Arab job applicants.

¹ Relly Sa'ar, "A Yitzhak Cohen by any other name," *Ha'aretz English Edition*, 6 December 2001.

The ministry appoints most senior educators, such as principals and supervisors, via tenders. The tender committee is comprised of five members - two representatives of the teachers' unions, one from the relevant local authority, and two from the ministry. A Jewish candidate merely needs to persuade the panel of his professional qualifications. But for Arab candidates, the procedure is a little different, because Cohen is a member of the tender committee for all Arab applicants. And since Cohen's decisions are determined by Shin Bet reports, the Arab candidate must pass not only a professional vetting but also a security one. An Arab educator who has been a member on many committees with Cohen said that even when a majority of the committee favors a certain candidate, Cohen has veto power. But when an applicant is rejected due to Cohen's objections, the ministry never says that he was rejected for security reasons "since this wouldn't stand up in court." The educator added that an Arab candidate for promotion will rarely challenge Cohen's decision, even if it is believed to be unjustified, "for fear that the Education Ministry will fire him from his teaching job as well." Ben-Zion Dell, who served as ministry director-general from 1996-99 under National Religious Party ministers Zevulun Hammer and Yitzhak Levy, rejects the notion that Cohen's decisions might be unjustified. "Cohen is an experienced Shin Bet man, and I trusted him absolutely," he said. "Every opinion he passed on to me was always detailed, reasoned and backed by documentation. I never appointed a principal or supervisor if Cohen objected."

Dell said that during his time at the ministry, 10 Arab candidates were rejected for security reasons ...

Former Meretz Education Minister Yossi Sarid said he refused to allow Cohen to dictate his choices and appointed candidates even over Shin Bet objections when it seemed justified. The Shin Bet, he said, should have no role in educational appointments... [The separation must be made—security on its own and education on its own. But Deputy Internal Security Minister Gideon Ezra, who was deputy head of the Shin Bet in the 1990s, disagreed. "Unfortunately, we have not yet reached the point at which we can appoint educators solely on pedagogic grounds."

The Education Ministry said that, "the ministry's director general [Ronit Tirosh], recently announced that she would not allow external bodies, especially political ones, to interfere in the administration of the Arab schools... Therefore, it is clear that a candidate for an administrative position who is found to be involved in political activities or incitement will be rejected as a candidate."]²

² These additional remarks appear in the Hebrew original version of the article, see Relly Sa'ar, "Shabak Agent Appoints School Principals in Arab Sector," *Ha'aretz*, 6 December 2001.

The Ministry of Interior versus Palestinian citizens in Israel

Undoubtedly, Minister of Interior Eli Yishai (Shas) was the minister in Sharon's government during the Fifteenth Knesset, who more than any other, attacked the fundamental rights of Palestinian citizens in Israel. In his actions, too, GSS involvement was clear. Several examples of his interventions follow.³

Revocation of citizenship

On 10 June 2001, Minister Yishai examined whether he had the authority to revoke the citizenship and confiscate and cancel the passport of MK Azmi Bishara following his speech at the memorial ceremony for Syrian President Hafez al-Assad. The proposed basis for the revocation was MK Bishara's alleged breach of allegiance to the state. The Attorney General explained to Yishai that Bishara's immunity as an MK did not allow him to revoke Bishara's citizenship.

On 5 August 2002, Yishai expressed his intention to revoke the citizenship of two Palestinian citizens of Israel and to nullify the permanent residency status of a Palestinian from East Jerusalem, based on the alleged grounds that they had assisted in the execution of suicide actions in Israel and were members of terror organizations. The three were: Nihad Abu Kishik, a resident of Lydda held in jail in Israel, who was convicted of being a member of Hamas and planning the suicide action in Kfar Saba in April 2001, in which one person was killed; Qeis Obeid, who was suspected of being active in Hezbollah, and who, according to reports, was living in Lebanon; and Shadi Shurfa, a permanent resident from East Jerusalem, who was charged with belonging to the Popular Front for the Liberation of Palestine, and was being held in jail in Israel.⁴ In taking these actions, Yishai relied on information from the GSS and on Section 11(b) of the Nationality Law-1952, a provision that no minister of interior had ever used.⁵ The section states:

The Minister of Interior may terminate the Israel nationality of a person who has done an act constituting a breach of allegiance to the State of Israel.

On 29 August 2002, it was reported that the Attorney General had established procedures to "terminate the nationality of individuals involved in terrorism."

³ Mazal Muallem, "Yishai's Next Idea: Partial Denial of Rights," *Ha'aretz*, 7 August 2002.

⁴ *Ha'aretz*, 6 August 2002.

⁵ In response, MK Bishara said that the minister had turned the section into a political tool. "The citizenship of Arabs results from their being native residents... This is the only nationality that Arab citizens recognize and it existed even before Yishai's father, and other Israeli government ministers, thought about immigrating to this country, our homeland." *Fasl al-Maqal*, 9 August 2002.

According to the procedures, the Minister of Interior's decision will be reviewed by a forum headed by the Attorney General, with members from the State Attorney's Office, the Ministry of Foreign Affairs, and the Ministry of Interior. The review would be done following "the prime minister's approval." The members of the forum will take into account whether "the said citizen has an alternative place outside of Israel," and whether he had established another "center of life." Simultaneously, the Attorney General allowed Yishai to initiate proceedings to revoke the citizenship of Palestinian citizens of Israel involved in "terrorism."⁶

The Minister of Interior gave the three men 30 days to state their arguments in writing against his decision. Obeid's family wrote that, "Clearly, it is meaningless to send a letter to Taybeh, addressed to a person in Lebanon, and there is no way to send the notice of intention to terminate his citizenship."

Shurfa's family argued that he should be prosecuted and punished only following a fair trial, and that he was innocent until proven guilty. Furthermore, "it is unreasonable for the Minister of Interior to act in advance and impose such a drastic sanction before his guilt has been established."⁷

Worse than the harm to the most basic relationship between citizen and state (i.e., citizenship), the Minister's actions damaged the ties between Palestinian citizens in Israel and their homeland. Moreover, the Minister did this by administrative decision.⁸ When Yishai made his decision, two of the three men had not been convicted in court on the suspicions or charges against them.

The Minister of Interior has never revoked the citizenship of a Jewish citizen of Israel. For example, the citizenship of Yigal Amir, who assassinated Prime Minister Yitzhak Rabin, has not been terminated.⁹ The same is true

⁶ *Ha'aretz*, 29 August 2002.

⁷ *Ha'aretz*, 4 September 2002.

⁸ Na'ama Carmi and Yoram Shachar, "Bypass Road to Democratic Debate," *Ha'aretz*, 24 October 2002. For opinions supporting revocation of citizenship, see Abraham Fechter, "Ban Them, Terminate their Nationality," *Ha'aretz*, 9 October 2002; and Elyakim Haetzni, "Democracy Defending Itself," *Ynet*, 7 August 2002. Prof. Ze'ev Segal, legal commentator of *Ha'aretz*, argues that it is sufficient for the minister to exercise his authority to revoke citizenship if he "has significant intelligence information indicating hostile activity against the state. This is true even if the information is not enough to result in a conviction of the individual for a criminal offense for the act attributed to him." Ze'ev Segal, "Trial Unnecessary for Revocation of Citizenship," *Ha'aretz*, 6 August 2002.

⁹ In Amir's case, a third party requested that Minister of Interior Eliahu Suissa (Shas) revoke Amir's citizenship and cancel his right to vote. The request was made after the District Court had convicted Amir of assassinating Prime Minister Yitzhak Rabin. When Suissa failed to act on the request, a petition was filed to the Supreme Court. The Court rejected the petition, holding that citizenship is a fundamental right, in part because it is the foundation for the right to vote for the Knesset, from which democracy flows. H.C. 2757/96, *Hilla Alrai v. Minister of Interior, et. al.*, Supr. Ct. Rpt. 50 (2) 18. The Court cites the decision delivered by the former Chief Justice of the United States Supreme Court, Earl Warren, in *Trop v. Dulles*, 356 U.S. 86 (1958), which held, at pp. 92-102: "Citizenship is not a license that expires upon misbehavior... The deprivation>>

about Jewish citizens who were convicted or charged with extremely grave security offenses, including during the period of al-Aqsa intifada.¹⁰

In addition, the three Arab citizens of Israel targeted by Yishai are not citizens of another country; losing their Israeli citizenship would turn them into stateless persons.¹¹ In an editorial, *Ha'aretz* wrote:

The possibility of revoking the citizenship of Arab Israelis categorizes the entire Arab public in Israel as a group of citizens on condition, and destroys any vestige of the hope of integrating as a group holding equal rights in the state and society.¹²

In August 2002, the media reported that Yishai asked the legal advisors to the ministry to draft a bill that would change the Nationality Law and the Entry into Israel Law, whereby the Minister of Interior would be able to terminate the citizenship of persons involved in terrorist actions and incitement. Yishai even offered a few alternative suggestions such as revoking the individual's right to vote and cancelling and/or suspending his passport, and thus, leaving him with only temporary-residency status.

In September 2002, Minister of Interior Yishai signed an order revoking the citizenship of Abu Kishik.¹³

<< of citizenship is not a weapon that the government may use to express its displeasure at a citizen's conduct however reprehensible that conduct may be... It is a form of punishment more primitive than torture, for it destroys for the individual the political existence that was centuries in the development... The civilized nations of the national world are in virtual unanimity that statelessness is not to be imposed as punishment for crime."

¹⁰ See press releases of the Association for Civil Rights in Israel, 6 August 2002 and 9 September 2002 (www.acri.org.il), which mention that Jews who were convicted of treason and transferring secrets to enemy states were not stripped of their citizenship.

¹¹ The Ministry of Interior argued that the three had not lived in Israel in recent years. Two of them were living in the territory of the Palestinian Authority and the third was living in Lebanon. *Ha'aretz*, 4 September 2002. However, the Palestinian Authority is not a state. It should also be mentioned that residing in a certain place is not comparable to being a citizen of that state, i.e., although Obeid is living in Lebanon, he likely does not have Lebanese citizenship, as most Palestinians living in Lebanon, even those residing in the country for more than 50 years as refugees, have not received Lebanese citizenship.

¹² Editorial, "Who is a Citizen," *Ha'aretz*, 7 August 2002. In support of this notion, Shuli Dichter, the co-director of Sikkuy (a Jewish-Arab NGO in Israel) wrote: "Unconditional belonging in the civil sphere is an individual's basic resource of consciousness; the feasibility of excluding Arabs from this resource would turn them into homeless people. Such an action would readily lead Jews and Arabs onto a collision course. That is, civil war. The intolerable facility with which such a decision was reached to revoke the citizenship of Arab citizens, in comparison with Jews who harmed the state to an even greater degree, exposes the partial and fragile nature of Arab citizenship in Israel." Shuli Dichter, "Citizens on Condition," *Ha'aretz*, 12 September 2002.

¹³ *Ma'ariv*, 10 September 2002. The minister argued that Abu Kishik did not oppose revocation of citizenship, and even requested it. *Ha'aretz*, 11 September 2002.

Restrictions on the freedom of movement of Arab leaders

On 16 February 2002, at the request of the GSS, Minister Yishai signed an order prohibiting the leader of the extra-parliamentary faction of the Islamic Movement, Sheikh Ra'ed Salah, from leaving the country.¹⁴ Yishai issued this order pursuant to the authority granted to him by the Emergency Regulations, which state that the Minister of Interior may prohibit a person from exiting Israel, if the minister has grounds to "fear that his leaving is liable to harm state security." The restriction order against Sheikh Ra'ed Salah remained in effect for six months, and was extended twice, each time for six months.

Yishai's order forbade Sheikh Ra'ed Salah from exiting Israel for any destination abroad. The order stated as follows:

Pursuant to my authority under Section 6 of the Emergency Regulations (Foreign Travel)—1948,¹⁵ and after having studied the recommendation of the General Security Service, Ref. No. M/479168/0202, of 15 February 2002, together with its appendices, I am convinced that there is a substantial fear that the exit from Israel of Ra'ed Salah Suliman Mahajni, holder of identity card number 055201065 (hereinafter: "the subject"), is liable to harm state security. I prohibit his leaving the country for a period of six months, from 16 February 2002 to 15 August 2002. I instruct that this order be delivered by hand to the subject, and that he may state his arguments in writing as regards this order.

Notification of the existence of the order was first delivered to Sheikh Ra'ed Salah at the airport on 17 February 2002, immediately before he was due to travel abroad. He was not given an opportunity to be heard prior to the issuance of the order nor was he given a chance to confront the evidence relied upon by the Minister of Interior.

Sheikh Ra'ed Salah, represented by Adalah: The Legal Center for Arab Minority Rights in Israel, appealed the decision to the Supreme Court of Israel. In the appeal, he requested that the order be nullified and that he be permitted to travel to Mecca, Saudi Arabia to perform al-Umra, a commandment in Islam. The petitioner argued that the order severely infringes his constitutional right of freedom of movement, his personal liberty, and his freedom of religion. The Minister of Interior emphasized that there were reasons to fear that he would use his visit abroad to meet with individuals hostile to the state. The Supreme Court rejected the petition after studying the secret GSS material, which was not provided to the petitioner

¹⁴ From 1989 to 2001, Sheikh Ra'ed Salah served as the mayor of Umm al-Fahem, one of the largest Arab towns in Israel.

¹⁵ Section 6 states: "The Minister of Interior may prohibit the exit of a person from Israel if there are grounds for the fear that his leaving is liable to harm state security."

or his attorney. The Court held that security considerations prevail over the petitioner's right to leave the country.¹⁶

In March 2002, the director of the Population Bureau in the Ministry of Interior issued an order prohibiting the director general of the extra-parliamentary Abna'a al-Balad (Sons of the Country) movement, Muhammad Kana'aneh, from traveling to Egypt for one year, for "security" reasons. In August 2002, six months after the order was issued and following correspondence between Kana'aneh's attorneys and state authorities, the order was cancelled.¹⁷

These two orders join numerous other decisions that restricted the freedom of movement and the right of political participation of Arab political and religious leaders in Israel.¹⁸

Freezing naturalization and preventing family unification

In January 2002, Minister of Interior Eli Yishai instructed the legal advisors to his office to examine the possibility of legislative changes to reduce the number of Palestinians who become naturalized citizens following marriage to Israelis, and to limit the naturalization of Arabs who left Israel in 1948. *Ha'aretz* wrote that Yishai "perceives an urgent need in finding ways to restrict the number of non-Jews who receive Israeli citizenship, Arabs among them, which has dramatically increased in recent years and 'threatens the Jewish character of the State of Israel'."¹⁹

On 31 March 2002, Yishai ordered the freezing of tens of thousands of requests for family unification of Palestinians. The media claimed that the decision followed the suicide action in Haifa by an Israeli citizen, Shadi Tubasi. Tubasi's father received a status in Israel following his marriage to an Israeli citizen. However, in light of Yishai's directive of January 2002, the suicide action appeared to be a pretext for a pre-planned policy.

On 12 May 2002, the Cabinet unanimously approved Yishai's plan to change family unification policy, and thereby, sharply decrease the number of Palestinians who would become naturalized citizens following their marriage to Arab citizens in Israel. Government Decision 1813 regarding "the handling of persons staying illegally in Israel and family unification policy toward

¹⁶ H.C. 4706/02, *Sheikh Ra'ed Salah v. Minister of Interior* (decision delivered on 17 July 2002).

¹⁷ See Adalah, *Recent Developments: The Rights of the Palestinian Minority in Israel*, a report submitted to the Members of the Country Report Task Force—Israel, UN Human Rights Committee (2 October 2002) p. 6.

¹⁸ See Chapter 1 on the Knesset's decision to restrict the freedom of movement of MK Ahmad Tibi (Ta-al). See *infra*, the decision of the prime minister and of the Minister of Internal Security to order the administrative detention of a member of the Central Committee of the NDA party, and the refusal of the Minister of Defense to allow Hadash MKs to enter occupied Gaza.

¹⁹ *Ha'aretz*, 9 January 2002.

residents of the Palestinian Authority and foreigners of Palestinian origin” states, *inter alia*:²⁰

In light of the security situation, and because of the consequences of immigration processes and the settling of foreigners of Palestinian origin in Israel, including by way of family unification, the Ministry of Interior, in cooperation with the relevant government ministries, will formulate a new policy to handle family unification requests. Until formulation of this policy, which will be set forth in procedures and new legislation, as necessary, the following rules will apply:

1. *Handling of new requests, including pending requests*

- (a) Residents of the Palestinian Authority—new requests of residents of the Palestinian Authority to receive the status of resident or another status will not be accepted; a request that has been submitted will not be approved, and the spouse will be required to stay outside of Israel until decided otherwise.
- (b) Other persons—the request will be heard taking into account the origin of the individual invited [for whom the request is made].

2. *Requests within the graded procedure*

In the interim period, the permit that has been given will be extended, provided no reason for denial exists. A person shall not be granted a higher status.

Adalah petitioned the Supreme Court to nullify the decision.²¹ The petition was submitted on behalf of 57 petitioners—Arab citizens in Israel who are married to Palestinians, their spouses, and the children of the couples. The petitioners argued that the decision was discriminatory, in that the graded procedure for naturalization will continue to apply to spouses of Israeli citizens who are not Palestinian. They also argued that the decision is arbitrary, sweeping, lacks criteria, and is disproportionate. Further, they argued that the interim period to which the decision refers is not limited in time, that the decision violates their right to a hearing, and that it is being applied retroactively. Moreover, the petitioners contended that the decision breaches their fundamental constitutional rights, including their right to family life, dignity, privacy, and equality, and that it violates Israeli and international law.

On 22 May 2002, the Knesset debated “The New Policy of the Ministry of Interior regarding Naturalization.” Members of Knesset belonging to the Arab parties argued that the decision is racist and inhumane because it breaks up families and forces many children into the circle of poverty as a result of

²⁰ See the report on the website, “News from First-Class,” 12 May 2002—www.nfc.co.il.

²¹ H.C. 4608/02, *Imad Abu As'ad, et. al. v. Prime Minister, et. al.* The petition was filed on 30 May 2002. In a hearing on 14 July 2002, the Supreme Court ordered the petitioners to split the petition into several separate petitions. On 26 August 2002, Adalah filed 12 new petitions in this matter. See Adalah, Press Release, 29 August 2002.

their not living with both parents. Minister Dan Naveh responded on behalf of the government that this is not only some innocent matter, but an attempt to use what is referred to as “the right of return.”²²

Closing of Arab newspaper

In December 2002, Yishai informed the Arabic-language weekly newspaper, *Sawt Al-Haqq Wal-Hurriya*, the organ of the extra-parliamentary faction of the Islamic Movement, of his intention to issue an “order to cease publication of the newspaper” for two years. He took the step at the demand of the GSS, in coordination with Prime Minister Sharon, and in accordance with the opinion of the State Attorney’s Office. In a fax that he sent to the newspaper, Yishai wrote:

I am writing to inform you that, pursuant to Section 19(2)(a) of the Press Ordinance—1933, I am considering ordering the cessation of publication of the newspaper *Sawt Al-Haqq Wal-Hurriya* for a period of two years. I am doing this because the material presented to me ostensibly indicates that the articles published in the newspaper endanger public safety.

According to Yishai, the newspaper serves as an organ for severe incitement against Jews, Zionism, and the State of Israel, and gives a broad platform for the opinions of Hamas:

... which justify the use of violence and terror against Israelis, while extolling militancy and preaching continuously for people to die as saints. The newspaper also publishes many articles written by members of Hamas.

This newspaper has been published since 1989. It appears on Fridays in thousands of copies. In June 1990 (during the first intifada), it ceased publication for three months at the order of the Ministry of Interior. The grounds for the order were that it “serves as the official organ of Hamas and publishes material that incites against Zionism and Judaism.”²³

Two months prior to the Minister of Interior’s notice, the editor and a columnist of the newspaper were questioned by the police concerning a column that appeared in the newspaper in June. A *Ha’aretz* journalist wrote that the newspaper “is apparently among the most conspicuous publications

²² The 308th sitting of the Fifteenth Knesset, 22 May 2002.

²³ *Yediot Aharonot*, 23 December 2002. Other cases in which newspapers were shut down in Israel include *Kol Ha’am* (in Hebrew) and *Al-Itihad* (in Arabic), newspapers of the Communist Party, which were closed in 1953 on the grounds of “endangering public safety;” the newspaper *Al-Fajar* (in Arabic), which was shut down in 1981 on the same grounds; the Arabic-language newspapers *a-Shira’a* (1983), *al-A’ahd* and *al-Meathak* (both in 1986), and *al-Bian* (1994), which were closed on the grounds “of being funded by a terrorist organization.” See Moshe Goral, “Shutting Down Newspapers,” *Ha’aretz*, 23 December 2002.

printed and sold in Israel by license—and subject to censorship—since it was founded in 1989, that has not ceased to challenge and bother the authorities and representatives of the party groups on the Right.”²⁴

Dr. Mordechai Keydar of the Arabic Department of Bar-Ilan University told *Ha'aretz*:

The newspaper reflects the opinions of Sheikh Ra'ed [Salah], which are often not pleasant to Israeli ears. But it also presents reports that are of great social importance, such as the problems faced by youths and alcohol and drug abuse, and the negative effects of American culture. The newspaper only expresses what the people think. Is there somebody who believes that if the newspaper is closed, the people will become part of the Zionist movement?²⁵

“The Military Governor”

As a result of the draconian policies that he initiated and the decisions that he took, similar to those implemented by Israel during the military government (1948–1966), Minister Yishai came to be referred to as “the military governor.” During the military regime, Arab citizens in Israel were denied their fundamental rights, such as freedom of movement, and were closely monitored and controlled. Yishai's policies were clearly influenced by his close relationship with the security services:

Over the past year [2002], the ties [of Yishai] with senior GSS officials became closer, including those with GSS director Avi Dichter. Yishai's door was open to them, and he almost always followed their recommendations. In effect, Yishai, in exercising his authority, became a kind of executive arm of the GSS...²⁶

Prof. Mordechai Kremnitzer, Faculty of Law, Hebrew University, president of the Israel Press Council and a senior member of the Israeli Institute for Democracy, spoke about Yishai's actions:

The Minister of Interior is fed by the GSS and does not understand that he is supposed to take an independent critical position towards recommendations made by the GSS. He is not supposed to be a rubber stamp; rather, he should be a filter for GSS recommendations. Yishai's actions conform to a nationalistic political agenda, which is anti-Arab, that he believes pleases Shas voters. They integrate well in the general climate of *alihum* [war] on Arab Israelis, which are inherently dangerous.²⁷

²⁴ Yair Ettinger, “‘Yishai Continues to Make War against Islam,’ says Newspaper that was Shut Down,” *Ha'aretz*, 23 December 2002.

²⁵ *Ibid.*

²⁶ Mazal Mualem, “The Military Governor,” *Ha'aretz*, 2 January 2003.

²⁷ *Ibid.*

Refusal of Ministry of Defense to allow Hadash MKs to enter Gaza

On 6 November 2001, three members of the Hadash party group in the Knesset, Muhammad Barakeh, Issam Makhoul, and Tamar Gozansky, requested that Minister of Defense Binyamin Ben Eliezer and the Israeli military commander for the Gaza Strip allow them to cross through the Erez checkpoint to visit the Gaza Strip. The MKs emphasized that the Palestinian Authority's minister of justice promised to provide all the necessary security to protect them. The objective of the visit was, in part, to tour the area to view the situation following Israeli military actions there. The request was denied on the grounds that their personal safety was at risk, and because Israelis were not allowed to enter Gaza. Following the Ministry of Defense's decision, the three MKs petitioned the Supreme Court.

The petitioners argued that the decision was illegal, based on extraneous considerations, and should be nullified. The contention that their personal safety was at risk—given that the MKs themselves made the request coupled with the lack of specific information of an intention to harm them—was not persuasive to the MKs. They pointed out that journalists enter the Occupied Territories to report on the situation there. These MKs, who oppose Israel's occupation and the actions of the Israeli army, viewed a visit to Gaza as an expression of their political beliefs. Under the circumstances, the denial impeded their ability to fulfill their political role.

The petitioners further argued that the decision infringed their fundamental right to freedom of movement and right to leave Israel, their parliamentary immunity, and their ability to function politically as an opposition party group. The Supreme Court rejected the petition.²⁸

²⁸ H.C. 9293/01, *Member of Knesset Muhammad Barakeh, et. al. v. Minister of Defense Binyamin Ben Eliezer, et. al.* (decision delivered on 10 January 2002).

Administrative detention of an NDA Central Committee member

In November 2000, the GSS arrested Ghassan Athamleh, a member of the Central Committee of the NDA party.²⁹ Athamleh was detained on the suspicion that: “in October 2000, during the disturbances in the area of Kfar Kana [in the Galilee], he organized and played a central role in disturbances and stone throwing at security forces. The aforesaid is also suspected of illegal possession of a weapon and illegal association.” An administrative detention order was issued and signed by the Minister of Defense, Ehud Barak, pursuant to the authority given to him under the Emergency Powers (Detention) Law–1979. As a result, Athamleh was detained for six months without any indictment being filed against him and without any court convicting him of the allegations made against him. One of the main arguments against Athamleh’s administrative detention was that if the security forces had evidence to prove the suspicions against him, he would have been criminally prosecuted.

The Israeli authorities also violated his rights as a detainee. At the beginning of his detention, orders were issued forbidding him to meet with an attorney and prohibiting publication indicating that he was being detained. Athamleh’s case marked the first time in three years that a Palestinian citizen in Israel had been administratively detained. The use of this draconian power against a political leader is ultimately intended to silence political opposition by the Palestinian minority in Israel.

²⁹ Jamil Dakwar and Jake Wadland, “Administrative Detention: A Lawyer’s Testimony,” 3 *Adalah’s Review* 53 (2002).

The Demography Center of the Ministry of Labor and Social Affairs

In September 2002, after a break of four years, the Minister of Labor and Social Affairs, Shlomo Benizri (Shas), revived the Public Council for Demography. The objective was to set guidelines for a policy that will ensure “preservation of the Jewish character of Israel.”³⁰ The Council is an advisory body intended to monitor the activity of the Ministry’s Demography Center. The Ministry’s website states that:

The Demography Center acts to implement the demographic policy that endeavors to ensure a proper level of growth of the Jewish population. Its role is to advance joint and comprehensive demography policy in the government ministries and in the various services. The Center’s primary activity is performed through the Ministry of Construction and Housing, the Ministry of Education and Culture, and the Ministry of Health. The policy is formulated based on field surveys and research, conferences on demography, experimental projects, information activities, and distribution of written material.³¹

The Public Council is composed of 40 demographers, professionals from the fields of education and social work, gynecologists, jurists, economists, and representatives of women’s rights groups. The Demography Center’s budget was NIS 263,000 in 2002, and NIS 271,000 in 2003.³²

The Demography Center was founded in April 1967. The decision to create such a Center was adopted by the Levi Eshkol government, reasoning that:

There is a need to act systematically to implement the demographic policy, which is intended to create an atmosphere to encourage childbearing, taking into account its crucial importance for the future of the Jewish people.³³

The Israeli government not only sought to encourage Jewish couples to have more children; it also tried to reduce the birthrate among the Arab minority in the state. To achieve the latter, a staff of senior officials in the Prime Minister’s Office and in the security services made this secret decision.³⁴

The causes underlying Minister Benizri’s decision to revive the Council in 2002 were the following: The increasing number of non-Jewish immigrants,³⁵

³⁰ Anat Zigelman, “The Public Council for Demography will Reconvene in Early September,” *Ha’aretz*, 14 August 2002.

³¹ See www.info.gov.il/labor2.asp.20.

³² Letter to the Editor, Eli Shosheim, “Waste of Public Money,” *Ha’aretz* (Weekend Supplement), 8 November 2002.

³³ Joseph Algazy, “Director and Part-time Secretary against ‘the Demographic Threat,’” *Ha’aretz*, 18 March 1998.

³⁴ *Ibid.*

the number of foreign workers, intermarriage, and the decline in the Jewish birthrate.³⁶ The Central Bureau of Statistics found that the percentage of the Jewish population in Israel had declined from 77.8 percent in 2000 to 77.2 percent in 2001.³⁷

In a comprehensive article in *Ha'aretz*, a member of the Demography Council, former Health Minister Shoshana Arbeli Almoslino, was quoted as follows:

Why did we establish a state if in the end it will be democratic but not Jewish? What do they want - that I should encourage Arabs to have more children, to have 15 children instead of 10? The Jewish people must survive and do everything it can to ensure that it does.³⁸

In response to the Council being revived, the journalist B. Michael wrote:

... and whoever hitches onto the demographic criterion only to prefer one ethnic, religious, or racial group over another, he too will not be helped by the scientific description "demographic." He too is nothing more than a racist. So, the members of Benizri's Council can wriggle around as they wish and to the best of their ability... but the fact will remain the same. This is a council whose sole purpose is to invent more and more tricks to embed Israel's ethnic discrimination and develop more and more methods to give preference to Jewish citizens in comparison with its non-Jews. Its name, essentially, should be: The Public Council to Advance Religious Purity in Israel.³⁹

Others who opposed the Council raised reasons of another kind:

It is startling that Benizri and those like him think that the state, the legislature, the public national body is and must be a statement, a decision or even orientation regarding what people do in the most private area of their lives, and more specifically, what women do with the most personal thing they have—their bodies.⁴⁰

³⁵ According to Ministry of Interior statistics, it was during Yishai's tenure as minister that the percentage of non-Jews in Israel grew. Until 2001, the year that Yishai took office, about one-half of the new immigrants each year were non-Jews. Since then, the percentage has risen and has passed seventy percent. *Yediot Aharonot*, 14 November 2002. The journalist Yaron London related to this matter in one of his columns: "According to the immigration figures for the past year [2002], two-thirds of the immigrants are not Jews... The only explanation for this perversion of the Law of Return is that our immigration policy is dictated by the fear that there will be an Arab majority in Israel. Granting the right of immigration due to a fuzzy dynasty to some questionably Jewish ancient father is nothing more than an excuse intended to justify an immigration policy that is totally unrelated to the reason for which the law was enacted." Yaron London, "What do I Care about the Color of the Foreskin," *Yediot Aharonot*, 15 January 2003. See also Yehuda Litani, "Between Demography and Geography," *Yediot Aharonot*, 12 September 2002.

³⁶ *Ha'aretz*, 3 September 2002.

³⁷ Adalah News Update, 10 September 2002.

³⁸ Merav Sarig, "Birth of a nation," *Ha'aretz English Edition* (Magazine), 1 November 2002.

³⁹ B. Michael, "Tolerance and Demography," *Ynet*, 10 September 2002.

⁴⁰ Michal Rom, "Benizri, Get out of my Womb!," *Ynet*, 4 September 2002.

Directive of the Ministry of Education on teaching the heritage of transfer

In the run up to the anniversary of the death of Rehavam Ze'evi, who was assassinated by Palestinians belonging to the Popular Front for the Liberation of Palestine, the Ministry of Education published a circular on Ze'evi's legacy in September 2002.⁴¹ At the time of his death, Ze'evi was the Minister of Tourism in Sharon's government. He founded the Moledet political movement and headed it until his death. Transfer stood at the heart of his political ideology.⁴² In the Ministry of Education's circular, the concept of transfer was not used so as not to raise public criticism. The director general of the Ministry of Education instructed school principals to dedicate an hour of teaching time or "another instructional framework" to commemorate the "milestones in Zionism that Rehavam Ze'evi's actions and contributions touched on in achieving the national goal." The Ministry of Education issued a special circular under the heading, "Rehavam Ze'evi, Champion of the Youthful Years of a Homeland," which describes significant points in Ze'evi's life. Attached to the circular are a number of educational activities related to Ze'evi and political assassination. The activities emphasize values reflected by Ze'evi, in the opinion of the Ministry of Education, such as knowledge of and love for Israel, allegiance to the country, and contribution to its security.⁴³ The Ministry of Education referred the teachers to its website, to the heading, "Rehavam (Gandhi) Ze'evi, of Blessed Memory—Champion of the Youthful Years of a Homeland," a quotation taken from the words of Minister of Education Limor Livnat (Likud).⁴⁴ In writing about the website, the journalist and historian Tom Segev stated:

⁴¹ The anniversary of Ze'evi's murder was commemorated in a state ceremony attended by the highest echelon of political leaders in Israel. *Ma'ariv*, 7 October 2002. Following Ze'evi's murder, Akiva Eldar wrote: "With Minister Rehavam Ze'evi, Israel lost the only child in politics who exposed the nakedness of the ostensibly moderate Right. He was the only one among the leadership of the Right who proposed a solution to the contradiction between the dream of the Whole Land of Israel and the vision of the Jewish state. Ze'evi said out loud what many heads of the Likud (Uzi Landau, Limor Livnat, Tzachi Hanegbi) think: 'In the Land of Israel there is room for only one people—the Jewish people.' This is the practical meaning of their call to remove Yasser Arafat and to destroy the Palestinian Authority." Akiva Eldar, "Transfer is Dead, Long Live Apartheid," *Ha'aretz*, 23 October 2002.

⁴² See Chapter 4 for an extensive discussion of Moledet and the concept of transfer as articulated by MK Binyamin Elon (Moledet). On the life of Ze'evi, see Nadav Shargai, "If transfer is not moral," he used to say, 'Zionism too is immoral.'" *Ha'aretz*, 18 October 2001.

⁴³ *Ma'ariv* and *Ynet*, 30 September 2002; *Ha'aretz*, 6 October 2002. Some commentators argue that the rites of "knowing the country" are a means to achieve political support, and that they serve as propaganda to underlie and prove the claim of ownership of the redeemed Land of Israel. They also argue that "love of the homeland" is a project of immigrants intended to nationalize the physical and emotional domain. Meron Benvenisti, "Love of the 'Homeland'," *Ha'aretz*, 10 October 2002.

⁴⁴ "Democracy is among the wonders of human creation. It enables the rulers to do, in the name of the majority, anything that the normal mind would not dare to think, such as appointing>>

On the website, Ze'evi is portrayed to the youths as a scholar and gentleman, a researcher of the Land of Israel deserving of respect also because of the extreme parliamentary courtesy that marked his actions..., thus neutralizing the dear individual from the worldview that he preached and which gave him the status of a national icon deserving of the appreciation of the nation and its students. Of course, there is nothing more political than such an apolitical presentation of a person, who preached the expulsion of millions of persons in the name of an extreme nationalistic ideology. His being murdered does not grant him a "heritage" deserving of praise in a special class hour in school; rather, a real discussion of his "heritage" also calls for a discussion of transfer, including expulsion of the Arabs in 1948 and 1967.⁴⁵

Ha'aretz wrote that discussion of "Ze'evi's heritage" is liable to give dangerous legitimacy to the idea of transfer.⁴⁶ In addition, the journalist Salem Jubran wrote:

The evil [in the decision of Minister of Education Livnat] is that it praises a politician whose entire beliefs concentrated on transfer, i.e., on the question of the right of 20 percent of the Israeli population, the Arabs, to continue to live in their homeland. The minister wants this racist poison to penetrate into the minds and hearts of the Jewish pupils. Maybe our "iron woman" also thinks that the Arabs must learn about Ze'evi's heritage.⁴⁷

<<Limor Livnat as Minister of Education, or teaching the children of Israel to receive a lesson on 'Gandhi's heritage'... As a protest, parents can forbid their children to be exposed to turning black into white, and to hold a Gandhi lesson in that hour." Amir Oren, "Gandhi Lesson," *Ha'aretz*, 1 October 2002.

⁴⁵ Tom Segev, "Ze'evi to the Youth," *Ha'aretz*, 4 October 2002.

⁴⁶ Editorial, "The Heritage of Transfer," *Ha'aretz*, 7 October 2002.

⁴⁷ Salem Jubran, "The Heritage and the Evil," *Ma'ariv* (Today section), 3 October 2002.

Building communities

On October 2001, *Ha'aretz* reported on a survey conducted by the Ministry of National Infrastructure.⁴⁸ The survey revealed that 68 communities were under construction in Israel, and that only 33 of them were approved by government decision. The other communities were local initiatives to establish facts on the ground. According to the plan, seven communities were intended for the Palestinian Druze sector. The Israeli authorities separate this group from the overall Palestinian minority because a substantial proportion of Druze men serve in the army. Not one community was designated for the rest of the Palestinian minority. The Israel Lands Administration was developing 34 communities; the regional councils were responsible for 17; and four were the result of private initiatives. *Ha'aretz* reported that an inter-ministerial committee found that no apparent connection exists between the government's decisions and the plans. A senior official in the Ministry of National Infrastructure, whose name was not mentioned, told *Ha'aretz*:

There is a historic statement made in Israel that, if we do not grab land, an Arab will seize it.

This statement essentially sums up the attitude of the planning authorities and government ministries towards Arab citizens in Israel. The Arab minority is perceived as a threat to and an enemy of land planning and land use. Since the founding of the state, not one Arab town has been established, certainly not by the government, other than seven townships in which Palestinian Bedouin citizens were gathered after their land was expropriated by the state.

⁴⁸ Avi Shamul, "Sixty-eight Communities under Construction; None of Them are Intended for the Arab Sector," *Ha'aretz*, 14 October 2001.

Spraying of toxic chemicals on farm land of Palestinian Bedouin in the Negev

On 14 February 2002, the Israel Lands Administration (ILA) and the Green Patrol, both part of the Ministry of National Infrastructure headed by Avigdor Lieberman (Yisrael Beitenu), destroyed fields of crops belonging to Palestinian Bedouin in the Negev.⁴⁹ Chemical-spraying aircraft destroyed 12,000 dunams [3,000 acres] of crops. The Kimmir company was hired to do the work. According to the ILA, the crops were planted on state lands without permission, and Israel was acting energetically, through the ILA and the Green Patrol and other means, "to remove intruders from state lands in order to protect the lands and return them to ILA management..."⁵⁰ The Bedouin charged that the ILA was trying to uproot them from land that has belonged to them for generations. MK Yossi Sarid, chairperson of Meretz, who exposed the planned governmental action before it was implemented, said that: "the pictures of the lethal spraying from the air will be horrendous and hard to digest, and will lead to an uprising."⁵¹ Indeed, thousands of Bedouin demonstrated following the action and set up a protest tent. Also, the main event during the annual Land Day demonstration held by the Arab minority in Israel took place in the Negev in protest against the state's action.⁵² MK Taleb El-Sana (United Arab List) said that: "the state is the one that invaded the lands of the Bedouin who demand the 500,000 dunams that were taken from them."⁵³

⁴⁹ Aliza Arbeli, "The Lands Administration destroys Bedouin Fields in the Negev," *Walla*, 14 February 2002.

⁵⁰ Semadar Shmueli, "Sarid: The ILA Intends to Destroy Bedouin Crops," *Ynet*, 22 January 2002.

⁵¹ *Ibid.*

⁵² Shimon Ifergan, "Thousands of Bedouin Demonstrated against Spraying of Negev Lands," *Ynet*, 17 March 2002. Land Day is commemorated by Palestinians in Israel, each year, in memory of the six persons who were killed by Israeli security forces during demonstrations held on 30 March 1976 in protest against the expropriation of their land.

⁵³ Aliza Arbeli, "The State Destroys Bedouin Crops Grown in Violation of Law," *Walla*, 23 January 2002.

The plan for a “Zionist majority” in the Galilee and Negev

In October 2002, the government of Israel decided to direct the settlement division of the World Zionist Organization (WZO) to establish 14 new communities in the Negev, from the area south of al-Khalil to the Halutza dunes.⁵⁴

This decision was part of the Jewish Agency’s multi-year plan to establish a Jewish majority in the Galilee and in the Negev. The declared objective of the plan is to absorb 200,000 new residents in Galilee and 150,000 in the Negev.

Prior to the government’s decision, according to *Ha’aretz*, the Settlement Division of the WZO had only operated in the Occupied Territories. The decision to operate also within the State of Israel is intended to bypass the Supreme Court’s ruling in *Qa’dan*, in which the Court prohibited discrimination in land allocation policy based on national belonging. Shai Harmesh, the treasurer of the Jewish Agency, told *Ha’aretz* that the reason for the plan was:

to get around the problem that the government must act on behalf of all citizens of the State of Israel, while the WZO is entitled to act for the sake of the Jewish people.⁵⁵

The “innovation” in the initiative is defining the objective as a “Zionist majority” and not a “Jewish majority.” The significance of this objective is that the plan applies to Arabs, “who reveal a commitment to the state,” i.e., Arabs who serve in the army and consider themselves Zionists. Most Arab citizens in Israel are not Zionists and do not serve in the army. They will not benefit from this plan, which conforms to the policy of earlier Israeli governments that sought to disperse the population in a manner that thwarts the natural development of any Arab majority in the state.

⁵⁴ Yair Sheleg, “Jewish Agency readies plan to foster a ‘Zionist majority’,” *Ha’aretz English Edition*, 28 October 2002.

⁵⁵ *Ibid.*

Allocation of land to Jewish communities only

In July 2002, the unity government decided to support the proposed bill of MK Haim Druckman (National Religious Party) that provides for the allocation of land only for Jewish communities.⁵⁶ The decision was made following Minister of Education Limor Livnat's strenuous objection to the recommendation of the Ministerial Committee for Legislation to oppose the proposed bill. Seventeen Cabinet members voted to support Livnat's position. The Labor party ministers did not appear for the vote, except for Transportation Minister Ephraim Sneh, who voted to oppose the bill. Former minister Dr. Benny Begin harshly criticized the decision and the ministers who abstained (such as Minister of Justice Meir Shitreet) and who were absent for the vote. He said: "Like the physical welfare of an Arab is not to be ignored, so too his dignity must not be disregarded. And the same is true of Arabs as a group—their bodies and their dignity are not to be violated." The head of the Labor party faction in the Knesset referred to the decision as a "snatch" [unfair use of an opportunity] because it was not on the Cabinet's agenda and was only raised after the Prime Minister and most of the Labor ministers had left the meeting.⁵⁷ Following the subsequent public criticism, Prime Minister Sharon suggested at the Cabinet meeting held on 14 July 2002 to forward the proposed bill for renewed examination by the Ne'eman Committee. This committee had been established a week earlier to look into the matter of the Basic Laws. Sharon suggested that the committee examine the manner of implementing the proposed statute that some argued violates the principle of equality. Opposing Sharon's suggestion were National Religious Party ministers Yitzhak Levy and Effie Eitam. The Likud and Shas ministers, who had supported Livnat's position in the previous vote, this time voted for the Prime Minister's suggestion. MK Druckman, who had submitted the proposed bill, was surprised at the Minister of Justice Meir Shitreet (Likud), who had distanced himself from the proposed bill although he had signed it himself. Politicians deemed the acceptance of Sharon's suggestion as the "burial" of the bill.⁵⁸

⁵⁶ See Chapter 1 for more details on the proposed bill and its text.

⁵⁷ *Walla*, 9 July 2002.

⁵⁸ Diana Bachor, "The Cabinet Decided to 'Bury' the Druckman Law," *Ynet*, 14 July 2002.

The Trans-Israel Highway: Expropriation of land and police violence

A confrontation between the police and Arab demonstrators also occurred about one year after the mass protests of October 2000. This time, the police used batons and horses but did not open fire with live ammunition or rubber-coated metal bullets on demonstrators.

On 30 October 2001, large police units used force to disperse hundreds of Palestinian citizens of Israel, who were protesting the expropriation of 900 dunams of land of Tira and Taybeh, Arab cities in the Triangle [an area northeast of Tel Aviv]. The expropriation of the land was intended for the construction of Israel's first toll road and the longest road ever built in Israel (324 kilometers): The Trans-Israel Highway (Road No. 6). Although the Trans-Israel Highway Company and the ILA did not reach agreement with the Arab landowners regarding compensation—substitute land equal in amount and value—as decided in 2000 by Minister of Finance Avraham Shochat (Labor), Prime Minister Sharon directed that work begin on this part of the highway on 29 October 2001.⁵⁹ To accomplish the taking, a large number of police officers, Border Police, and special police units were employed. The demonstrators, among them peace activists and pro-environment activists, used non-violent means to try to prevent the work on the expropriated land. The police responded with violence: Policemen on horses forced their way into the crowd of demonstrators. As a result, many demonstrators were injured and hospitalized. Among those injured were MKs Issam Makhoul, Muhammad Barakeh (both of Hadash), and Ahmad Tibi (Ta-al). The confrontations continued the whole day.⁶⁰

The next day, agreement was reached at the Prime Minister's Office between several heads of Arab municipalities and local councils and representatives of the Trans-Israel Highway Company and ILA officials.⁶¹ One year and a half after the agreement was signed, most of the owners of the expropriated land had not yet been compensated. Landowners and the

⁵⁹ *Ha'aretz*, 31 October 2001. Sharon actually decided to continue the road construction work, although agreement had not been reached with the landowners in Tira and Taybeh, following a tour of one of the sections of the highway. *Ha'aretz*, 24 October 2001.

⁶⁰ *Al-Ittihad*, 31 October 2001 and 2 December 2001; *Ha'aretz*, *Yediot Aharonot*, *Ma'ariv*, *Al-Hayat*, 31 October 2001. A photograph with accompanying text that appeared in *Ma'ariv* illustrates the character of the media coverage of these demonstrations. The photo shows about nine police officers, two of them on horses, and all armed with batons, assaulting three demonstrators. One of the policemen is sitting on a demonstrator, who is stretched out on the ground, and the headline conceals the face of the demonstrator. One police officer, with a threatening look on this face, is beating a young demonstrator with a baton, while the demonstrator is raising his hand to protect his body. The description under the photo states: "Violence in Tira. Police Stop Demonstrators Wanting to Attack Bulldozers."

⁶¹ *Ha'aretz*, 1 December 2001.

Public Committee against the Trans-Israel Highway contended throughout the negotiations with the authorities that the government did not have any real intention of compensating the landowners by giving them substitute parcels of land. Committee members also contended that the authorities used the “carrot and stick” approach: First beat the demonstrators and then, the next day, facing the pressure of the work taking place on the land, have several heads of municipalities and local councils sign an agreement without receiving any legal or engineering advice, and without attaching maps to the agreement.⁶²

The Trans-Israel Highway was first planned in 1976. In 1994, the Knesset enacted the Nationwide Israel Highway Law—1994. Pursuant to the law, a Trans-Israel Highway Company, a government corporation, was formed and land was expropriated. A large proportion of the expropriated land was privately owned by Arab citizens of the state. The other lands used for the highway were “state owned.” The planners contended that the objectives of the highway were to shorten the time between peripheral areas and the center of the country in order to generate economic growth. Others pointed out that the road could serve strategic goals, such as during wartime.

Opponents of the highway contended, in part, that the state was deliberately expropriating the land that still remained in the hands of Arab owners, in continuation of its land grab policy. They also argued that the highway will: take away the livelihood of farmers and destroy the agricultural sector among the Arab minority; prevent the formation of a metropolis of Arab towns by making territorial contiguity among them impossible; turn the Arab towns

⁶² Itai Vardi, “Highway at an Exorbitant Price,” *Tsomet HaSharon*, Issue 1040 (27 December 2002). About two months prior to the confrontation, *Ha'aretz* reported that: “The Israel police force is prepared for possible recurrence of disturbances among Arab Israelis in the coming weeks. It is estimated that the disturbances will break out around two focal points: the anniversary of the beginning of the violence in the [Occupied] Territories [the intifada] and in Israel [the mass protests of October 2000] at the end of the month, and the opening of a new stage in work on building the Trans-Israel Highway north of Tira and Taybeh in the Triangle. At the order of Police Commissioner Shlomo Aharonishky, command and reserve forces were readied to be called into action if violent rioting takes place. However, the police dodge responsibility in the intelligence area, and contend that only the General Security Service (Shabak) can and must supply it with the necessary intelligence prior to the disturbances they are concerned will recur this month and next. The Shabak's position is that it is indeed the sole entity responsible for intelligence on hostile terrorist activity, espionage, and political subversion among Arab Israelis. However, it contends that the police share responsibility in monitoring Arab individuals and entities. In making the preparations—referred to as a “measured step”—Police Commissioner Aharonishky allocated six command headquarters of Border Police brigades in the north, center and south of the Police and Border Police training bases and of Border Police staff. A senior officer will head each command, at the rank of brigadier general or commander, that will conduct exercises on anticipated actions in his sector, and each command will have about 300 police officers. These and other forces will be provided with protective gear and non-lethal weapons. The method of fighting was also revised, giving priority to short-range contact with the violent demonstrators, opposing them face to face, rather than firing from a distance, which is liable to strike innocent people...” Amir Oren, “Police Demand Information from the GSS on Arab Israelis,” *Ha'aretz*, 7 September 2001.

and villages into ghettos growing in population but with no opportunity for expansion; cause an environmental nuisance by increasing air and water pollution and reducing green areas; and fail to economically benefit the Arab population.⁶³

Dan Rabinowitz, a senior lecturer in the Faculty of Sociology and Anthropology at Tel Aviv University, wrote:

When we examine the compensation given by the Trans-Israel Highway Company to the landowners of the property expropriated for the road, we see two principal differences between the Jewish and Palestinian citizens of Israel. First, the land expropriated from Palestinians is mostly privately owned land that was purchased for full value by the families. Most of the Jewish farmers, on the other hand, received their rights in the land from the state for free. Second, the consideration offered is decidedly different. The Palestinians are only offered exchanges of land, without any added value whatsoever. On the moshavim [agricultural communities], in exchange for their expropriated land, some landowners received approval for commercial use of other farmlands in their possession, a benefit of enormous value. Some kibbutzim received, in consideration for their expropriated land, the cancellation of substantial portions of their share of kibbutz debts, a paper accounting transaction that, in certain cases, set a value of a dunam of farmland [1/4 acre] at hundreds of thousands of shekels...

But in another area, that of dividing the profits and benefit at the community level and as regards the inequality at a collective level, the gaps are much greater... If all the benefits of this project are directed toward the Jews only, as appears will be the case, the initiative will be another device for discrimination and disparity, and will add further to the bitterness and hatred that so many in the Palestinian community in Israel feel against the state.⁶⁴

On 12 October 2001, the local weekly *Al HaSharon* published an interview with the Minister of National Infrastructure, Avigdor Lieberman (Yisrael Beitenu).⁶⁵ Lieberman contended that, "some Arabs of Tira and Taybeh, with the backing

⁶³ See for example, Joseph Algazy, "Pay with Land, but Receive Nothing in Exchange," *Ha'aretz*, 1 November 1999; Sa'id Badran and Lior Baron, "Political Highway," *Ma'ariv* (Today), 3 July 2001; Nimer Sultany, "Lessons from the Trans-Israel Highway Affair: Towards Self-Criticism," www.arabs48.com, 26 July 2002 (in Arabic); Jonathan Cook, "Robbed and Humiliated," *Al-Ahram Weekly*, 22 November 2001; and Isabele Humphries, "Palestinians & the Trans-Israel Highway," *Between the Lines*, vol. 11 (December 2001) p. 24.

⁶⁴ Dan Rabinowitz, "Road Generates Real Estate," *Panim—Journal of Society and Education*, vol. 21, p. 23 (Summer 2002). The article may be found at www.itu.org.il. Dan Rabinowitz, "Trans-Israel Highway and Increasing Gaps," *Ha'aretz*, 12 November 2001; and "Pregnant Road," *Ha'aretz*, 11 June 2002.

⁶⁵ "Ivette [Avigdor] Lieberman: 'We Won't Allow Territorial Contiguity between Tira and Taybeh and Qalqiliya,'" *Al HaSharon*, Issue 593, 12 October 2001.

of the Arab members of the Knesset, have a plan to create territorial contiguity between Tira-Taybeh and nearby Qalqiliya, which lies within the Palestinian Authority.” He also contended that: “There are already some areas within the State of Israel that we have lost.” This interview, similar to many other statements made against Arab citizens of the state, was intended to present Arabs and their representatives as lawbreakers, extremists, and nationalists.⁶⁶ The publications sought to prepare public opinion for the forceful entry onto the expropriated lands. On 14 October 2001, members of the Public Committee filed a complaint with the police and the Attorney General against Lieberman. The complainants’ alleged that the minister had engaged in acts of insurrection and racial incitement, and that he published false reports generating fear and panic among the public.⁶⁷ On 13 November 2001, attorney Talia Sasson, head of the Special Functions Department of the State Attorney’s Office, said that: “following examination of the complaint, we have decided that the comments made by Minister Lieberman do not raise a suspicion of the commission of any criminal offense whatsoever.”⁶⁸

The Trans-Israel Highway events accurately reflect the attitude of the Israeli authorities toward the Arab minority. They illustrate the systematic expropriation of land; the failure to institute planning that benefits the Arab minority, and by contrast, the implementation of land planning hostile to Arab citizens of the state; police violence against Arab demonstrators; discrimination against the Arab minority and increasing economic gaps between Arabs and Jews in Israel; and unrestrained incitement against the Arab minority and its public representatives without providing a proper response by Israel’s law enforcement authorities.

⁶⁶ See for example, Nurit Palter, “Trans Israel Highway is liable to Rekindle the Fire on the Arab Street,” *Yediot Aharonot*, 25 June 2001. In this article, the Trans-Israel Highway Company contended that: “the demand [for land as compensation] is to create contiguous Arab territory east of the highway, which is an enclave in the State of Israel.”

⁶⁷ Letter from attorney Nimer Sultany, coordinator of the Public Committee against the Trans-Israel Highway, to Attorney General Elyakim Rubinstein, dated 14 October 2001, regarding the complaint against Avigdor Lieberman and others following publication of the article in *Al HaSharon*.

⁶⁸ Letter No. 2792-87-2001 from attorney Sasson to attorney Nimer Sultany, dated 13 November 2001.

Chapter 3

PUBLIC OPINION SURVEYS

Introduction

Public opinion surveys are an important tool for mapping popular attitudes and revealing stereotypes. They also generally reflect social behavior and political and social shifts over time, and the effect of changing events on public opinion. This chapter presents the results of public opinion surveys that were conducted in the period under review in this report, from the beginning of al-Aqsa intifada in September 2000 to the end of December 2002. These surveys were performed by researchers and institutes affiliated with Israeli universities and by private companies on behalf of Israeli media outlets. The chapter is divided into subjects; on each subject, relevant public opinion surveys are presented. The subjects chosen for this report relate to key aspects regarding the citizenship status of Palestinians in Israel. Some of the surveys were conducted solely among the Israeli Jewish public, while others sought responses from among the total population, that is, including Palestinian citizens in Israel. Unfortunately, these total-population surveys do not indicate a breakdown for various positions held based on nationality. In the surveys in which Palestinian citizens in Israel were also polled, a large percentage of the participants expressed opinions that could be described as anti-Arab. In most of the cases, therefore, it is assumed that had Palestinians in Israel not taken part in the surveys, the percentage of anti-Arab positions reflected in the results of the polls would have been much higher.

Loyalty to the state

The claim that the Palestinian minority in Israel is not loyal to the state is often a pretext for the exclusion, marginalization and discrimination against them. Presenting Palestinian citizens in Israel as a “fifth column” and as an internal enemy make them a target of hatred and racism.

In a *Ma'ariv*—Gallup poll published in May 2001, 67 percent of the Jewish public polled said that Arab citizens in Israel are not in favor of Israel being an independent state. The remaining 33 percent of the Jewish public interviewed said that Arab citizens in Israel would prefer to be citizens of a Palestinian state, if such a state is established. Eight hundred sixty-five Jewish Israeli adults participated in the poll, the statistical error of which was four percent.¹

In a survey conducted in February 2002 by the Jaffee Center for Strategic Studies, Tel Aviv University, face-to-face interviews were held with 1,264 Jewish Israelis. Only 24 percent of those interviewed stated that Palestinian citizens in Israel are loyal to the state, as compared with 38 percent who held this view in February 2000, prior to the beginning of al-Aqsa intifada.²

¹ Hami Shalev, “Quiet—No Matter what the Cost,” *Ma'ariv* (Weekend Supplement), 25 May 2001.

² Asher Arian, *Security Opinion 2002* (Jaffee Center for Strategic Studies, 2002); and Asher Arian, *Israeli Public Opinion on National Security 2000* (Jaffee Center for Strategic Studies, 2000). See also “About One-half of Jews Support Transfer of Palestinians,” *Walla website*, 12 March 2002.

Political involvement

On 6 October 2000, a few days after al-Aqsa intifada had begun and while the demonstrations in Israel were taking place, *Ma'ariv* published a public opinion survey about Israeli Jewish perceptions of the political involvement of Palestinian citizens in Israel. This survey was conducted among 591 Jewish Israeli adults, and had a statistical error of 4.5 percent.³ Thirty-two percent of the Jewish public questioned stated that they support denying Palestinian citizens in Israel the right to vote.

In analyzing the results of the survey, the journalist Hami Shalev stated that:⁴

'Fathomless hatred of Arab Israelis' heralded the title of this column exactly a week ago in a survey conducted a few days before the violent uprising began. There is no reason, then, to be startled. Hatred of Arabs was not born now, but a dimension of fear may have been added to it.

In a *Ma'ariv*—Gallup poll published in December 2000, in which 597 adults participated, 58 percent said that Ehud Barak does not have a mandate to sign a peace agreement with the Palestinians if Arab voters provide him with the margin of victory in the elections and he does not attain a majority of the votes from the Jewish public. Among Arab voters surveyed, fifty-nine percent said that Barak has a mandate, and 31 percent said that he does not. On the other hand, 76 percent of the total number polled said that Barak has a mandate to sign an agreement if he attains a Jewish majority. The statistical error of this sample was 4.5 percent.⁵

Seventy-two percent of the Jewish public participating in the May 2001 *Ma'ariv* survey said that, in their opinion, the Arab MKs who openly support Syria and the Palestinians should be removed from office. The breakdown, based on political orientation, was as follows: Right (85 percent), Center (56 percent), and Left (42 percent).⁶

In November 2001, University of Haifa researchers Badi Hasisi and Ami Pedhazur conducted a survey under the title, "Positions of the Jewish Public toward the Arab Minority in Israel." Seven hundred individuals, a representative sample of Israel's adult Jewish population, participated in the survey. Sixty-two percent of those interviewed said that, "Arabs have excessive influence over Israeli politics."⁷ The results of this survey are surprising in light of the fact that

³ Hami Shalev, "Battle Shock," *Ma'ariv* (Weekend Supplement), 6 October 2000.

⁴ *Ibid.*

⁵ Hami Shalev, "Don't Want," *Ma'ariv* (Weekend Supplement), 29 December 2000.

⁶ See *supra* note 1.

⁷ Not yet published. The information was provided by Badi Hasisi.

the Palestinian minority in Israel believes that it lacks political influence.

In the February 2002 Jaffee Center for Strategic Studies survey, 80 percent of the Jewish public questioned stated that they are against Arab citizens of Israel being involved in crucial decisions facing the country, such as returning land and determining the state's borders. This figure represents a slight increase over those obtained in prior years: 75 percent of the Jewish public polled held this view in 2001 as compared with 76 percent in 2000. In February 2002, seventy-two percent said that they oppose Arab political parties joining the government, as compared to 67 percent in 2001, 46 percent in 2000, and 50 percent in 1999.⁸ On this point, a substantial majority of the Israeli Jewish public polled appears to have changed their view in response to the changing political circumstances.

Table 1

Summary of Opinion Data Regarding Political Involvement			
Position	In favor (%)	No. of Participants	Pollsters, date of poll
Deny Arab citizens in Israel the right to vote	32	591	<i>Ma'ariv</i> 6 October 2000
Remove Arab MKs who openly support Syria and the Palestinians	72	861	<i>Ma'ariv</i> 25 May 2001
Arab citizens in Israel have excessive influence in political matters	62	700	Hasisi & Pedhazur November 2002
Arab citizens in Israel should not be involved in crucial decisions	76	1201	Jaffee Center 2000
	75	1216	Jaffee Center 2001
	80	1264	Jaffee Center February 2002
Oppose Arab political parties joining government	46	1201	Jaffee Center 2000
	67	1216	Jaffee Center 2001
	72	1264	Jaffee Center February 2002

⁸ See *supra* note 2.

⁹ Sever Plotsker, "Loyal to Palestine, want to live in Israel," *Yediot Aharonot* (Weekend Supplement), 6 October 2000.

¹⁰ "Survey: Barak will Lose to Sharon or Netanyahu," *Walla website*, 25 October 2000.

¹¹ See "Weekly Survey" on Channel Two's website: <http://bet.iba.org.il>.

Responsibility for the mass protests of October 2000

In large part, the mass protests of October 2000 marked a significant breaking point between the state and the Arab minority in Israel, as well as between Jewish and Arab citizens in Israel. In a survey conducted by *Yediot Aharonot* on 6 October 2000, 74 percent of the Jewish public polled categorized the behavior of the Palestinian citizens in Israel during the mass protests of October 2000 as “treason.”⁹

In a survey commissioned by *Galey Tsahal* (army radio) and conducted by the Geocartography Institute in late October 2000, 73 percent of the adult population in Israel polled stated that they feel an increased sense of anger. Thirty-one percent expressed anger at Ehud Barak, 30 percent at Barak and his government, 22 percent at Yasser Arafat, and 26 percent at the Palestinian citizens in Israel.¹⁰

On 22 August 2002, *Kol Israel's* Channel Two announced the results of a survey conducted the day before by Markets—Panorama regarding the mass protests of October 2000. For this poll, 506 individuals, including Arab citizens in Israel, were interviewed. The survey was commissioned for the radio program “Another Matter,” hosted by Dalia Yairi. The participants in the survey were asked this question: “In light of the hearings now taking place before the Or Commission investigating the events that occurred about two years ago involving Arab Israelis, who in your opinion is ‘guilty’ of causing these events to erupt?” The responses were as follows.¹¹

- 11.9 percent blamed the “Israeli police force that used excessive force”;
- 14.8 percent blamed “Ehud Barak, prime minister at the time, who did not issue the proper directives”;
- 12.5 percent blamed “Shlomo Ben Ami, who then served as Minister of Internal Security and did not give proper directives”;
- 41.6 percent blamed “the rioters among Arab Israelis.”

Table 2

Summary of Opinion Data Regarding the Mass Protests of October 2000		
Position	In favor (%)	Pollsters, date
Categorized the behavior of Arab citizens of Israel during the October 2000 mass protests as “treason”	74	<i>Yediot Aharonot</i> 6 October 2000
Angry at Arab citizens of Israel following the October 2000 mass protests	26	<i>Galey Tsahal</i> 25 October 2000*
Blame the “rioters” among Arab citizens of Israel for the eruption of the October 2000 mass protests	41.6	<i>Kol Israel</i> 22 August 2002*

* Surveys that included Arab citizens in Israel

Anti-liberal attitudes

In the *Ma'ariv* survey of 6 October 2000, 45 percent of the Jewish public participating in the poll said that, in their opinion, the Israeli security forces were too soft in handling the “disturbances” within the Green Line [within Israel’s borders], while 43 percent said that the security forces handled the “disturbances” well. It will be recalled that this “handling” led to the killing of 13 Palestinian demonstrators and to the injury of hundreds of other Palestinian citizens in Israel.

On 13 October 2000, two weeks after al-Aqsa intifada began, a local newspaper published by *Yediot Aharonot* ran the results of a survey conducted by the Geocartography Institute. This survey polled Arab and Jewish residents of Jaffa (a mixed city next to Tel Aviv) regarding public attitudes towards Arab citizens in Israel and views concerning the appropriate response of the security forces to the protest demonstrations in Israel. The survey’s results are presented in Table no. 3.¹²

Table 3

Position	Reaction of Jewish Public of Jaffa	(%)
Following the recent events, have more negative feelings toward the Arabs*	General	34
	Hatred	12.7
	Fear	11.3
	Disappointment	10
If the violence continues much longer, will support taking extreme measures	General	29.9
	Impose closure on Arab citizens in Israel	8.8
	Revoke the citizenship of Arabs in Israel	8.8
	Deport the Arab citizens of Israel to the areas of the Palestinian Authority	12.3
Would want the security forces to use extreme measures to quell the demonstrations	General	50.7
	Disperse the demonstrators by clubs, tear gas, and rubber bullets	28.3
	Quell the demonstrations at any cost, including the firing of live ammunition	22.4

* Hatred of Arab citizens in Israel was particularly evident among participants aged 18-24 (age of army service): 33 percent of them responded that they hate their Arab neighbors.

¹² *Tel-Aviv*, 13 October 2000.

Also on 13 October 2000, a *Ma'ariv*—Gallup poll was published. Seventy-three percent of the participants in this survey said that they understand the feelings of the Jewish citizens of Israel who rioted that week against Arab citizens of the state. This poll was taken among 620 adults in Israel, both Jewish and Arab, and had a statistical error of 4.5 percent.

Thirty-five percent of the Jewish public who took part in a survey conducted by Haifa University researchers Pedhazur and Canetti in October 2001 said that when “Arab terror” hits, a violent response by Jews against Arabs is desirable.¹³ Table no. 4 shows the degree of support for this statement by population group. Support for this position is the greatest among Russian immigrants to Israel. Additional data will also be presented in this chapter on the anti-Arab positions held by Russian-Israelis. On this issue, the researcher Dmitri Shumsky writes:

... Perception of ethnic-national identity of Russian-Israelis, as it grew during the 1990s, combining a Russian-Jewish ethnic element and a National Zionist element, embraces within it a perception of the Arab minority as a natural target for discrimination. Furthermore, every action of the minority intended to change the status quo is perceived as an existential danger to the Jewish majority, and thus enables the majority to use all necessary means to protect itself, including removing the civic basis for the continuing presence of the minority in the country.¹⁴

Table 4

Position	Profile of supporters	In favor (%)
When Arab terror strikes, a violent response by Jews against Arabs is desired	Overall Jewish public	65
	Breakdown of supporters by groups	
	Russian immigrants	77
	Ultra-Orthodox	38
	Settlers (Occupied Territories)	33
	Residents of development towns	54
	Breakdown of supporters by country of origin (birthplace of father)	
	Israel	27
	Western Europe/ America/ Australia	19
	Eastern Europe	24
	Former Soviet Union	35
	Africa/ Asia	35

¹³ See *infra* note 16.

¹⁴ Dmitri Shumsky, “Ethnicity and Citizenship in the Perception of Russian Israelis,” 19 *Theory and Criticism* 17 (2001) [Hebrew].

In March 2001, researchers from the University of Haifa conducted a survey for the purpose of analyzing the “non-liberal” culture underlying the use of lethal force by Israeli police against Palestinian citizens in Israel, as was done during the mass protests of October 2000.¹⁵ The researchers noted that this was not the first time that Israeli police had opened fire against Arab citizens of the state. In practice, this phenomenon began with the founding of the state and has occurred every five years.

The researchers contend that three factors molded the State of Israel as a “non-liberal democracy”: (1) the centrality of public debate and the widespread belief that Israel will survive only as long as it is stronger than its enemies; (2) the constant striving to homogeneity and consensus—Israel has done everything in its power to nurture homogeneous values among the citizens by means of political socialization through the state’s educational system; and (3) the ethnocentricity built into Israeli culture and society. The idea that Israel must be first and foremost a “Jewish state,” unifies the large majority of the Jewish public in Israel.

The research focused particular attention on the attitudes of the Jewish public toward protest by Arab “militants” and by Jewish “militants” from the far Right. Both of these extreme groups are liable to raise opposition among the mainstream Jewish public in Israel. This survey polled 505 Jewish Israeli adults (except for immigrants who arrived in Israel after 1989). Table no. 5 presents the results of the survey.

Table 5

Position	In favor (%)	Against
Use of force against Arab citizens of Israel	38	18
Use of force against Jewish citizens of Israel	12	42
Israel must limit the rights granted to Arab citizens of the state	25.1 – strongly supported	45.6 – strongly rejected
The law that empowers the state to ban political parties is not implemented enough	34.6 – strongly supported	31.3 – strongly rejected
A marginal threat to state security also justifies harsh limitations on democracy	20.6 – strongly supported	47.4 – strongly rejected
Maintaining the state of emergency [in effect in Israel since 1948] is vital for national security	63.4 – strongly supported	15.8 – strongly rejected
The involvement of the Supreme Court in security matters endangers national security	39.1 – strongly supported	34.5 – strongly rejected

¹⁵ Gabriel Ben-Dor, Badi Hasisi, and Ami Pedhazur, “Anti-Liberalism and the Use of Force in Israeli Democracy,” *The Journal of Political and Military Sociology*, vol. 31:1 (2003) (forthcoming).

- In classifying the ideology-based anti-liberal views of the participants, the researchers found that these attitudes are stronger in individuals who define themselves as close to the Right (70 percent) or the far Right (68 percent). These positions were also expressed by more than 50 percent of the participants who considered themselves in the Center politically, while 38 percent on the Left and 20 percent on the far Left also voiced these attitudes.
- Thirty-two percent of the participants said that they voted for Ehud Barak, compared with 68 percent for Ariel Sharon. The research indicated that Sharon voters, especially those with low income, gave the greatest support to the use of force against Arab citizens of the state.
- The research also revealed that Mizrahi Jews were more likely than other groups to support the use of force against Arab citizens in Israel.

The researchers contend that the findings of the survey fully confirm their two assumptions: (i) those who hold attitudes indicating a preference for security values also support the use of force against both Arabs and Jews; and (ii) those who hold ethnocentric attitudes also support the use of force only against Arab “militants.” The researchers’ third assumption - that those who hold attitudes that strive for homogeneity and consensus over pluralism will also support the use of force against both Arabs and Jews - was partially confirmed. This assumption was found to be correct regarding the use of force against Arabs in Israel, but not against Jewish citizens of the state.

In sum, the research revealed substantial conformity between the three features of a “non-liberal” society, on the one hand, and support for the use of force against Arab citizens in Israel, a group that is both a minority and not part of the consensus, on the other hand.

Support for Kahanism

In October 2001, Haifa University researchers Ami Pedhazur and Daphna Canetti published a report on public attitudes toward Kach. The Kach movement was founded by Rabbi Meir Kahane, and was banned in the 1980s and declared a terrorist organization in 1994.¹⁶ The survey polled 706 Israeli Jews over the age of 18, and had a statistical error of 3.5 percent.

According to the researchers, the four main principles of Kahanist belief are racism; nationalism (the primary expression of which is a striving for territorial expansion); hostility to democracy; and justification for the use of force. The research showed that immigrants from the former Soviet Union who arrived in Israel after 1990 provided the greatest support for Kahanism; close behind this group in support of Kahanism was the ultra-Orthodox. In a breakdown of veteran Israelis based on ethnic origin (birthplace of father), the researchers found that the major supporters of Kahanism were Israelis of African and Asian descent. Support was lowest among Israelis whose roots were in Western Europe, America, and Australia. The researchers also found that not one political party (including Left and Center parties) totally rejected Kahanism, and that voters for the immigrant parties (Yisrael B'Aliya and Yisrael Beitenu) were the major supporters of Kahanist ideology. In addition, the research revealed that as the level of education rises, support for Kahanism declines, except in two cases in which the differences between groups based on education are rather marginal: (i) government encouragement of emigration of Arab citizens of Israel (58—69 percent); and (ii) the belief that Arab citizens of Israel endanger state security (59—70 percent).

Twenty percent of the Jewish public who participated in the survey said that if the Kach party were allowed to compete in the next elections, they would consider voting for it. The breakdown by groups was as follows: 11 percent of immigrants from the former Soviet Union, 33 percent of the ultra-Orthodox, 19 percent of the settlers in the Occupied Territories, and 19 percent of residents of development towns. The breakdown based on ethnic origin provided the following results: 27 percent of persons of African/Asian descent; 23 percent of those from the former Soviet Union; 14 percent of those of eastern European descent; 2 percent of persons of western European/ American/Australian origin; and 21 percent of individuals of Israeli origin.

¹⁶ Ami Pedhazur and Daphna Canetti, "Kahane Died, and He Lives in Israel," *Panim—Journal of Society and Education*, vol. 20, p. 123 (May 2002) [Hebrew].

Encouraging emigration and transfer

In the *Ma'ariv* poll of 6 October 2000, the interviewers asked questions regarding a future permanent-status agreement. Fifty-one percent of the Jewish participants in the poll said that they would support a proposal pursuant to which Israel would transfer areas populated by Arab citizens from within the Green Line, such as Umm al-Fahem, to the Palestinians in exchange for territory of the settlements in the West Bank. Thirty-three percent rejected the proposal.

Sixty percent of the Jewish public polled responded that they want all "Arab-Israelis" to be transferred from the territory of the State of Israel. Table no. 6 presents the measure of support for this idea by various groups.

Table 6

Position 1	Group	In favor (%)
All Arab citizens of Israel should be removed from the territory of the State of Israel	Ultra-orthodox	100
	New immigrants	71
	Voters for Netanyahu (Likud)	77
	General Jewish population	60

According to the Haifa University researchers' survey of October 2001, sixty-five percent of the Jewish population polled believes that the government should encourage the emigration of Palestinian citizens in Israel. Table no. 7 analyzes the profile of supporters of such a proposal. Support for this idea is highest among the ultra-Orthodox and Israelis of Asian/African origin.

Table 7

Position 2	Supporters	Degree of support (%)
The government should encourage emigration of Palestinian citizens in Israel	Entire Jewish population	65
	Groups	
	Russian immigrants	76
	Ultra-orthodox	87
	Settlers (Occupied Territories)	63
	Residents of development towns	73
	By country of origin (birthplace of father)	
	Africa/ Asia	70
	Former Soviet Union	65
	Eastern Europe/ Western Europe/ America/ Australia	64
	Israel	65

In the November 2001 survey of Hasisi and Pedhazur, 62 percent of the Jewish public participating in the poll supported the position that, “The government must encourage the emigration of Arab Israelis.” Table no. 8 analyzes the profile of those who support this position. The results reveal that the level of education of the participants is not a significant factor. In terms of political preference, the greatest percentage of supporters was found among the far Right. However, the interesting statistic is that one-quarter of the participants who consider themselves as Left also support this position.

Table 8

Position 3	Supporters	Degree of support (%)
The government should encourage emigration of Arab citizens of Israel	Entire Jewish population	62
	Education	
	Elementary school	65
	High school	63
	Post high school	68
	University	58
	Political orientation	
	Far Right	93
	Right	76
	Center	51
	Left	25
	Vote for prime minister	
	For Ariel Sharon	73
	For Ehud Barak	28
	Did not vote	53
	Income	
	Low	46
	Moderate	44
	High	26
	Employment	
	Unemployed	71
	Employed	60

The Jaffee Center survey of February 2002, in which only Jewish Israelis participated, showed an increase in support of statements calling for the expulsion of Arab citizens as well as the encouragement of their emigration, in comparison with previous years. The survey also indicated that one-third of the Jewish population polled supported transfer, and that two-thirds supported the encouragement of emigration of Arab citizens. Table no. 9 presents the results.¹⁷

Table 9

Position	In favor – 2002 (%)	Previous years (%)
Transfer of Arab citizens of Israel	31	24 in 1991
Transfer of Palestinian residents of the Occupied Territories	46	38 in 1991
Encourage emigration among Arab citizens of Israel	60	49 in 2001
Encourage Arabs to leave the state without indicating if they leave willingly or by compulsion, or whether regarding citizens of Israel or residents of the Occupied Territories	53	-

On 7 February 2002, *Kol Israel's* Channel Two radio station published a poll taken by Markets—Panorama, one week before, regarding the issue of transfer. The 504 participants polled included Arab citizens in Israel, and the survey had a statistical error of 4.5 percent. The poll was taken for the program “Another Matter,” hosted by Dalia Yairi. The following question was asked: “The leader of [the political party] Moledet, Minister Binyamin Elon, again raised the idea of transfer. Do you personally support or oppose transfer of any kind of an Arab population?” Table no. 10 shows the results, according to which some 20 percent of the public supports transfer of the Arab population. It is assumed that if Arab citizens of Israel did not take part in the survey, the percentage of support for this idea would have been much higher.¹⁸

In a survey conducted by *Ma'ariv*—Market Watch published in April 2002, 21 percent of the 590 Israeli Jewish adults polled said that, in the next elections, they would vote for a new right-wing party that supports transfer.¹⁹ The statistical error of this poll was 4.5 percent.

Table 10*

Position on Transfer	In favor (%)
“Support” transfer of Arab population	13
“Substantially support” transfer of Arab population	6.9
“Substantially oppose” transfer of Arab population	21.5
“Completely oppose” transfer of Arab population	51.6

* Arab citizens in Israel participated in the survey

¹⁷ See *supra* note 2.

¹⁸ See the “Weekly Survey” on Channel Two’s website: www.bet.iba.org.il.

¹⁹ Hami Shalev, “Losing Patience,” *Ma'ariv* (Weekend Supplement), 26 April 2002.

Table no. 11 summarizes the findings of the various surveys on the issue of transfer. These findings indicate a great degree of support for positions that seek to rid Israel of Arab citizens of the state or to expel them from their homeland.

Table 11

Summary of Opinion Data on Transfer		
Position	In favor (%)	Pollsters, date of poll
Exchange land in Israel populated by Arab citizens of the state for settlements in the Occupied Territories	51	<i>Ma'ariv</i> , 6 October 2000
Movement of all Arab citizens of Israel to areas outside of the state (= transfer)	60	<i>Ma'ariv</i> , 6 October 2000
	31	Jaffee Center February 2002
Encourage emigration of Arab citizens of Israel to locations outside the borders of the state	65	Pedhazur & Canetti October 2001
	62	Hasisi & Pedhazur November 2001
	60	Jaffee Center February 2002

Danger to state security

According to the survey conducted by Pedhazur and Canetti in October 2001, sixty-four percent of the Jewish public polled believes that Palestinian citizens in Israel endanger state security. Table no. 12 profiles supporters of this position. Support is highest among the ultra-Orthodox and Jews of African/Asian descent.

Table 12

Position	Breakdown of Participants	In favor (%)
Arab citizens in Israel are a danger to state security (October 2001)	Overall Jewish population	64
	Groups	
	Immigrants from former Soviet Union	78
	Ultra-orthodox	80
	Settlers (Occupied Territories)	62
	Residents of development towns	75
	Ethnic origin (birthplace of father)	
	Africa/ Asia	69
	Former Soviet Union	60
	Eastern Europe	47
	Western Europe/ America/ Australia	49
	Israel	64

In the Hasisi-Pedhazur survey of November 2001, 63 percent of the Jewish participants said that, "Arab Israelis constitute a danger to the security of the state." Table no. 13 presents the various attitudes expressed by individuals who supported this statement.

Table 13

Positions of supporters of statement that "Arab Israelis constitute danger to state security"	Supporters in favor (%)
"Military means should be used at disturbances like the demonstrations of Arab Israelis in October 2000"	68
"Arabs in Israel are treated too well by the government"	77
"The Arabs' complaints about their situation in Israel are not justified"	60
"The influence of Arab Israelis on Israeli politics is excessive"	83
"The behavior of Arab Israelis is the main source of tension between Arabs and Jews"	74
Unwilling to have an Arab be their supervisor at work	76
Unwilling to host Arabs for a social visit at home	63
Unwilling to have a relative be romantically attached to an Arab	95
Unwilling to have Arabs live in their neighborhood	85
Tend to refrain from meeting with Arabs	53

In the survey conducted by the Jaffee Center in February 2002, 61 percent of the Jewish public questioned stated that Arab citizens of Israel endanger state security. In the *Ma'ariv*—Market Watch poll published in August 2002, 72 percent of the Jewish public polled said that the Palestinian citizens in Israel constitute a danger to state security. This latter survey was taken among 590 Jewish and Arab adults in Israel, and had a statistical error of 4.5 percent.²⁰

Table no. 14 summarizes the results of the polls taken on the issue of Arab citizens in Israel as a "danger to state security" in the years 2001-2002. The findings show that a large majority of the Jewish public surveyed (61-72 percent) believes that the Palestinian minority in Israel endangers state security.

Table 14

Position	In favor (%)	Pollsters, date of poll
Arab citizens of Israel are a danger to state security	64	Pedhazur & Canetti, October 2001
	63	Hasisi and Pedhazur, November 2001
	61	Jaffee Center, February 2002
	72	<i>Ma'ariv</i> , August 2002

²⁰ Hami Shalev, "Sector under Suspicion," *Ma'ariv* (Weekend Supplement), 30 August 2002.

Crisis in Jewish-Arab relations

In the survey taken by the Jaffee Center for Strategic Studies in 2001, 55% of the 1216 Jewish Israelis interviewed said that the intifada had turned their attitude toward Arab citizens in the state from positive to negative. Seventy-two percent of those polled also said that their negative attitude toward Palestinians in the Occupied Territories had increased. The statistical error of this survey was 3.1 percent.²¹

In the *Ma'ariv*—Gallup poll published in September 2001, 49 percent of the 596 adults polled in Israel said that the deepest division in Israeli society was “between Jews and Arab-Israelis.” This figure doubled over the previous year, when 24 percent of those polled gave a similar response. Twenty-seven percent in 2001 said that the greatest division in Israel was between the religious and non-religious sectors; in 2000, 54 percent identified this split as the greatest division.²² In analyzing these findings, Hami Shalev wrote:

But it is equally true that the poor attitude of most of the population to Arab Israelis, as grave as it was in the new survey, existed prior to the outbreak of the events of October, before Arab Israelis joined the ranks of the suicide “shahidim” [martyrs—the reference is to Shaqer Habishi, an Arab citizen of Israel from the Galilee, who allegedly blew himself up at the Nahariya train station]. The difference is that last year it was possible to relate to the findings of the survey, which indicated the deep alienation of the Jewish population towards the Arabs, as new, sensational, and cause for anguish, which called for a thorough overhaul. Today, it is taken for granted, justifiable, and ingrained, which does not require explanation or repair... It is true that in a normal country, the findings would sound a great alarm, but it is also true than in the past year, we realized, finally, that we are not really a normal state.

Table no. 15 shows the results of a survey of the Jewish public on this issue as conducted by Hasisi and Pedhazur in November 2001.

²¹ Asher Arian, “Public Opinion on Security Matters: Effect of the 2000-2001 Intifada,” 4 *Strategic Assessment*, Issue 2 (August 2001) 9. See also, “Survey: 58 Percent Continue to Support Oslo Process,” *Walla website*, 6 June 2001; and Asher Arian, *Israeli Public Opinion on National Security 2001* (Jaffee Center for Strategic Studies, August 2001).

²² Hami Shalev, “Bad Wind,” *Ma'ariv* (Weekend Supplement), 14 September 2001.

Table 15

Position	In favor (%)
"Arabs in Israel are treated too well by the government"	48
"The Arabs' complaints about their situation in Israel are not justified"	71
"The behavior of Arab Israelis is the main source of tension between Arabs and Jews"	58

In the *Ma'ariv*—Market Watch survey published in October 2002, 590 Israeli adults were asked, "In your opinion, can the crisis in relations between Jews and Arabs in Israel be overcome, or not?"²³ The results of this survey, which has a statistical error of four percent, are set forth in Table no. 16.

Table 16*

	Possible to overcome the crisis in Jewish-Arab relations in Israel (%)	Impossible to overcome the crisis in Jewish-Arab relations in Israel (%)
Entire population	61	33
Voters for the Right	52	43
Voters for the Center	60	31
Voters for the Left	84	15
New immigrants	38	56
Arab citizens in Israel	81	13

* The survey included Arab citizens in Israel

²³ Hami Shalev, "Sharon Pays," *Ma'ariv* (Weekend Supplement), 4 October 2002.

Work, society, and housing

The results of the November 2001 survey by Hasisi and Pedhazur taken among the Jewish public are clear: Some two-thirds of the Jewish public polled is not prepared to live together with Arab neighbors, work together with Arab colleagues or even meet with Arab citizens of the state. Table no. 17 shows the results of this survey.

Table 17

Position	In favor (%)
"I am not willing to have an Arab be my supervisor at work"	60
"I would not host an Arab at my home for a social visit"	48
"I do not want a relative of mine to have a romantic attachment with an Arab"	89
"I do not want Arabs to live in my neighborhood"	68
"I prefer to refrain from meetings with Arabs"	63

Other surveys provide comparable results. On 11 July 2002, *Kol Israel's* Channel Two published a survey on these issues conducted by Markets—Panorama. The survey was taken among 502 Jewish and Arab adults in Israel one week before publication for the radio program "Another Matter," hosted by Dalia Yairi. The questions posed to the Jewish participants in the survey and their responses follow (see tables no. 18, 19, 20 and 21). The survey had a statistical error of 4.5 percent.²⁴

Table 18

"Are you willing to have Arab-Israeli families living in your neighborhood?"			
	Entire population (%)	Voters for Sharon (%)	Voters for Barak (%)
Willing	33.2	15.9	60
Unwilling	56.6	80.1	21.6
Do not know/ refuse to answer	10.1	4	18.4
Total	100	100	100

²⁴ See the "Weekly Survey" on Channel Two's website : www.bet.iba.org.il.

Table 19

"Are you willing to have Arab-Israeli families living in your building?"			
	Entire population (%)	Voters for Sharon (%)	Voters for Barak (%)
Willing	26.6	10.4	47.6
Unwilling	62.1	86.5	26.1
Do not know/ refuse to answer	11.3	3.1	26.3
Total	100	100	100

Table 20

"If you were the owner of an apartment for rent, would you be willing to rent it to an Arab-Israeli?"			
	Entire population (%)	Voters for Sharon (%)	Voters for Barak (%)
Willing	34.7	17.6	57.6
Unwilling	56.9	72.6	35.1
Do not know/ refuse to answer	8.4	9.8	7.3
Total	100	100	100

Table 21

"Do you support or oppose the proposed bill pursuant to which land will be allocated to build communities for Jews only?"			
	Entire population (%)	Voters for Sharon (%)	Voters for Barak (%)
Support	54.3	71.1	31.3
Oppose	38.6	25.3	60.3
Do not know/ refuse to answer	7.1	3.7	8.4
Total	100	100	100

In the survey taken by the Jaffee Center in February 2002, 35 percent of the Jewish participants said that the economic condition in the state was deteriorating because Arabs in Israel take jobs from Jewish citizens of the state. Support for this position, by various groups, was as follows: Russian immigrants (38 percent), ultra-Orthodox (55 percent), settlers (33 percent), and residents of development towns (42 percent). The breakdown by ethnic origin was as follows: African/Asian (43 percent), former Soviet Union (27 percent), Eastern Europe (32 percent), Western Europe/America/Australia (23 percent), and Israel (35 percent).

Kind of regime in Israel

In the *Ma'ariv*—Market Watch survey published in September 2002, 33 percent of the 590 adults in Israel polled said that they thought the State of Israel was racist, while 59 percent did not agree with this statement. The breakdown of those who said Israel was a racist state, based on political orientation, was as follows: Right (22 percent), Center (27 percent), and Left (57 percent).

In response to the question, "Of the following kinds of regimes, would you want or not want Israel to be such a regime?," large numbers of Israeli adults said that they wanted a non-democratic regime—a regime based on Jewish law, a military regime, a monarchy, or a dictatorship. Table no. 22 presents the results of this survey, which had a statistical error of 4.5 percent.²⁵

Table 22*

	Wants (%)	Do not want/ do not know (%)
Comparable to current regime	61	39
Presidency like the United States	40	60
Regime based on Jewish law	16	84
Military regime	11	89
Monarchy	8	92
Dictatorship	7	93

* The survey includes Arab citizens in Israel.

Table 23

	Ultra-Orthodox	Religious	Traditional	Non-religious
Comparable to current regime	48	60	63	63
Presidency like the United States	20	32	44	46
Regime based on Jewish law	77	42	15	3
Military regime	15	15	15	9
Monarchy	11	18	7	6
Dictatorship	16	8	9	5

²⁵ Hami Shalev, "We're Actually OK," *Ma'ariv* (Jewish New Year Supplement), 6 September 2002.

Jewish state

Table no. 24 presents the participants’ responses to the question, “With which definition do you agree more—Israel is a Jewish state, or Israel is a state of all its citizens?” This question was asked in the *Ma’ariv*—Market Watch survey of September 2002.

Table 24

	Jewish State (%)	State of all its citizens (%)	Don't know (%)
Entire Population	50	40	10
Right voters	62	30	8
Center voters	44	43	13
Left voters	53	38	9
Arab citizens	32	61	7

In the November 2001 survey conducted by Hasisi and Pedhazur, 91 percent of the Jewish public who participated in the poll said that, “It is important to maintain the character of the state of Israel as a Jewish state.” In order to see the connection between support for a Jewish state and anti-liberal tendencies, it is important to examine the opinions of those who answered in this manner. Table no. 25 presents the various attitudes expressed by individuals who supported this statement.

Table 25

Positions of supporters of statement that “It is important to maintain the character of the state of Israel as a Jewish state.”	Supporters in favor (%)
“Military means should be used at disturbances like the demonstrations of Arab Israelis in October 2000”	57
“Arabs in Israel are treated too well by the government”	51
“The Arabs’ complaints about their situation in Israel are not justified”	75
“The Arabs in Israel have too much influence on Israeli politics”	64
“The behavior of Arab Israelis is the main source of tension between Arabs and Jews”	62
Unwilling to have an Arab be their supervisor at work	64
Unwilling to host Arabs for a social visit at home	52
Unwilling to have a relative be romantically attached to an Arab	92
Unwilling to have Arabs live in their neighborhood	73
Tend to refrain from meeting with Arabs	60

In the same survey, 57 percent of the Jewish public polled said that they support the statement, “The government should allocate resources for Jewish citizens and only after that for the others.” The remaining 43 percent opposed the statement. Table no. 26 analyzes the profile of those who support this position.

Table 26

Position	Supporters	Degree of support (%)
The government should allocate resources for Jewish citizens of Israel and only after that for others.	Entire Jewish population	57
	Education	
	Elementary school	90
	High school	66
	Post high school	60
	University	45
	Political orientation	
	Far Right	97
	Right	70
	Center	42
	Left	26
	Vote for prime minister	
	For Ariel Sharon	73
	For Ehud Barak	28
	Did not vote	53
	Income	
	Low	57
	Moderate	42
	High	29
	Employment	
	Unemployed	74
	Employed	53

Chapter 4

PUBLIC EXPRESSION OF HATRED AND RACISM

Introduction

Chapter One examined how hostile attitudes held by a large part of the Jewish majority toward the Palestinian minority found expression in the enactment of new laws, the submission of proposed bills, and the silencing of the Palestinian minority's political representatives. Chapter Two showed how these attitudes were as realized in government decisions. Chapter Three presented surveys that showed the extent to which the Israeli Jewish public holds anti-democratic, anti-liberal, and racist attitudes towards Arabs in Israel. This chapter examines the "public culture" of hatred, racism,¹ and racial discrimination² against Palestinians, as it is expressed by a wide array of political leaders and public figures as well as by the general public in Israel.

The chapter presents examples of statements, articles, websites, and other expressions of hate, racism, and verbal and physical violence towards Palestinian citizens of Israel by politicians, academics, journalists, rabbis, and other public and lay figures. Of course, it is impossible to separate racism and oppression against Palestinians in the Occupied Territories from that which is expressed and practiced against the Palestinian minority in Israel. Therefore, this chapter also provides examples of racism against all Palestinians and Arabs. The examples come from a broad spectrum of Israeli society. While some of the examples are more extreme and harsh than others, the dominant theme is clear. The individuals voicing and acting upon these views are not, for the most part, marginal players in Israeli society. They are individuals who receive media coverage, a fact that warrants examination on its own.

Racial incitement against the Palestinian minority in Israel is easy, cheap, and beneficial. In the great majority of instances, the inciters are not afraid of criminal prosecution; quite the opposite—they can expect to benefit politically

¹ Section 144A of the Penal Law—1977 defines racism as "persecution, humiliation, contempt, enmity, hostility, or violence, or causing hatred against a community or segments of the population, because of color or membership in a race or ethnic-national origin." Albert Memmi wrote that, "Racism is the attribution of value, general or particular, to meaningful or seeming differences in favor of the person discriminating by harming the victim, where attribution of the value is intended to justify offensive action or excessive rights." Albert Memmi, *Racism* (Jerusalem: Carmel Publishing, 1998), p.106 [Hebrew].

² Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." Available at: www.unhcr.ch/html/menu3/b/d_icerd.htm. While Israel ratified the ICERD in 1979, it is not binding under Israeli domestic law because the Knesset has not enacted legislation to incorporate it.

from their actions.

The distance from violent speech and writings to physical violence is very short. Israeli society and its current public political culture provides fertile ground for violent speech. This violence positions Palestinians in Israel as outcasts at the work place, in society in general, and in the centers of political decision-making.

The State of Israel was founded as the “state of the Jewish people,” and is so defined. Israel is not a state of its Palestinian citizens. From the start, the very definition of the state shunts aside the Palestinians. Indeed, the state was founded on the ruins of the Palestinian people and caused a mass of Palestinian refugees. At the same time that the state encourages Jewish immigration from throughout the world, it prevents Palestinian refugees from returning to the homes from which they were uprooted. The state also encourages Jewish childbirth, while relating to the Arabs as a demographic threat and as a danger to state security. These actions transmit a daily message to Palestinian citizens that they are not entitled to equal rights and that they are undesired guests in the state, even though they are natives of this country. This is the context in which endless expressions of hatred and racism are made.

Politicians

The best possible illustration of the above comments is the statement of *Ariel Sharon*, Israel's prime minister and the head of the Likud party. During the debate on the second and third readings of the proposed Knesset Members (Immunity, Rights and Duties) (Amendment No. 29) Law– 2002, held on 22 July 2002, MK Talab El-Sana (UAL) said: “I am asking you, prime minister, I am not a Jew and you admit this. So where is my state?” Sharon replied:

I want to answer you. So as not to get confused, I want to tell you what my parents told me when I was a child. They said, so as not to confuse you, that I should know the following: all the rights over the Land of Israel are Jewish rights. In the Land of Israel, all the rights must be given to the people who live here. That is the difference between rights over the Land and rights in the Land.³

Sharon later explained in the same debate: “All the rights in the Land are for all the citizens. All the rights over the Land are Jewish rights.”⁴

Comments made by former Prime Minister *Ehud Barak* provide a good example of the conception that Palestinian citizens of Israel constitute a security and demographic threat to the state. In an interview with the historian Benny Morris, Barak said that:

[I]f the conflict with the Palestinians continues, Israel's Arabs will serve as [the Palestinians'] “spearpoint” in their struggle, and “this may necessitate changes in the rules of the democratic game... in order to assure Israel's Jewish character.

Barak expressed his support for transferring areas in Israel that are largely populated by Arab citizens, such as Umm al-Fahem and the “Little Triangle,” with their residents to the Palestinian state, as part of the exchange of lands that would be made. He added, “But this could only be done by agreement– and I don't recommend that government spokesmen speak of it [openly]. But such an exchange makes demographic sense and is not inconceivable.” In the interview, Barak also sharply criticized what he referred to as the “culture of lies” of the Palestinian Authority Chairman Yasser Arafat and the Palestinians.

They are products of a culture in which to tell lie... creates no dissonance. They don't suffer from the problem of telling lies that exists in Judeo-Christian culture. Truth is seen as an irrelevant category. There is only that which serves your purpose and that which doesn't. They see themselves as emissaries of a national movement for whom everything is permissible. There is not such thing as “the truth.”

³ The 333rd sitting of the Fifteenth Knesset, 22 July 2002.

⁴ *Ibid.* Sharon refused a Jordanian request to publicly state his opposition to the “transfer” of Palestinians from the West Bank to Jordan. *Ha'aretz*, 28 November 2002. For an extensive discussion on transfer, see *infra* in this chapter.

Barak added that, "The deputy director of the F.B.I. once told me that there are societies in which lie detector tests don't work, societies in which lies do not create cognitive dissonance [on which the tests are based]."⁵

The expression "exchange of lands" is a code term for getting rid of Palestinian citizens of Israel. This expression is used to compare Palestinian citizens in Israel with Israeli settlers living in colonies in the Occupied Territories. This comparison ignores the historical and factual context. The settlers set up communities in places that Israel had occupied. International law prohibits the transfer of a population of the occupier into the occupied territory. The settlers began their settlement enterprise with the encouragement and funding of all Israeli governments, and with a religious-messianic or zealous Zionist ideology. Contrary to the settlers, Palestinian citizens of Israel are natives who have lived in their towns and villages for generations, long before the founding of the state.

The phrase "exchange of lands" reflects the intention to preserve a Jewish majority in Israel and to ensure that the state maintains its Jewish character. Another example of this attitude is found in the comments of MK *Ephraim Sneh* (Labor), Minister of Transportation in Sharon's national unity government and deputy minister of defense in Barak's government. In March 2002, Sneh announced a political plan essentially grounded on the exchange of lands between Israel and the Palestinians. "Sneh suggests annexation into Israel of four to five percent of the territory of the West Bank in the large settlement blocks near the Green Line: the Etzion Bloc, Ma'aleh Adumim, and the Ariel area. In exchange, he proposes giving the Palestinians land in the Triangle on the border of Samaria along with assets such as infrastructure and trains. His close associates contend that when Sneh speaks about the Triangle, he is referring primarily to Umm al-Fahem and its nearby villages." In response to the question, "Why would Arab Israelis agree to something like that?," Sneh responded that, "This whole process is not easy. There will be Israeli Jews who will have to leave their homes. There may be some individuals who will have to change their nationality; we have to go for a natural solution..."⁶

The historian and journalist Tom Segev wrote about these suggestions, as follows:

Like physical transfer, the legal transfer that Sneh speaks about also reflects the

⁵ Benny Morris, "Camp David and After: An Exchange (1) An Interview with Ehud Barak," *The New York Review of Books*, 13 June 2002, available at: www.nybooks.com/articles/15501. See also, "Barak Proposes: Umm al-Fahem to the Palestinian Authority," *Walla*, 12 September 2002. See *infra* regarding similar comments on the "culture of lies" made by the journalist Dan Margalit.

⁶ Amira Lam, "Sneh and the Arab Question," *Yediot Aharonot* (Seven Days Supplement), 22 March 2002. See also Ori Nir, "We Can't Just be Shooed Away," *Ha'aretz English Edition*, 25 April 2002.

longing to be rid of all the Arabs: those in the territories and those in Israel. While in uniform, Dr. Sneh liked to develop his image as one of the officers who knew how to act well with the Arabs. In cabinet meetings, he now speaks like a twin of Lieberman-Landau; some participants in these meetings find it hard to believe their ears. While extolling the transfer, this week on television, the minister also proposed to expel the families of suicide-attackers from their homes.⁷

It is important to mention that Barak and Sneh belong to what is considered the Left-Center (the Labor Party). This group attempted to force a political arrangement on the Palestinian Authority at Camp David in July 2000. More explicit statements are made by politicians and public figures on the political Right and the far Right. Many of these individuals portray Palestinian citizens of Israel as a strategic threat and suggest transfer as a proper and possible solution.

Binyamin Netanyahu, prime minister from 1996 to 1999, foreign minister in Sharon's government (presently finance minister), and a leader of the Likud, said in an interview with *Ma'ariv* that the Arab citizens in Israel are a "demographic threat" and that he supported a solution of "exchange of populations by consent." Excerpts of the interview follow:⁸

Interviewer: In closed discussions, you speak a lot about your concern about Arab Israelis.

Netanyahu: Yes, this is a very worrisome matter. First, because of the internal demographic threat. We are a Jewish state, and if their birthrate continues to be higher than ours, at some stage the balance will shift. So the major task of Zionism over the past one hundred years was to tip the demographic balance in our favor. We succeeded for the most part, thanks to immigration, but we have to consider what the future holds in store. For example, if we had more attractive economic conditions here, it is reasonable to assume that a large majority of the 200,000 Jews in Argentina would come.

Interviewer: And other than immigration?

Netanyahu: There is no reason or incentive for Arab Israelis not to move forward on a natural path of development socially and economically such that their birthrate would decline. This depends, for example, on universal education, universal education for girls and boys in the Arab sector. Not only in the demographic sense, but also in the structural sense...

Interviewer: In the past, you also said that one day, they would request independence in the Galilee.

⁷ Tom Segev, "Transfer Now," *Ha'aretz*, 5 April 2002.

⁸ Eli Kamir, "Comments of the Leader of the Opposition," *Ma'ariv* (Weekend), 6 September 2002.

Netanyahu: Yes. This will happen if we do not stop the Palestinians from acting wildly. The more that they think that they are succeeding in their terror against us, the greater the danger of increasing Palestinization among Arab Israelis.

Interviewer: And what will occur?

Netanyahu: Quiet with Arabs outside and inside of Israel is based on one principle only: deterrence. The problem is that Israel's power of deterrence came undone following the Oslo Accords...

Interviewer: And that is the solution, that they will be part of us only because they are afraid?

Netanyahu: Like I told you, there is not one solution. Additional means are surely needed, such as making great advances in the level of education and in the economic situation of Arab Israelis, but at the same time, it has to be made clear that whoever takes part—in incitement or in an action—of Arab terror, his actions are seen as opposition to the existence of the State of Israel, and the state will take all lawful measures against him.

Interviewer: For example?

Netanyahu: Removing all the representatives in the Knesset who incite and openly support the Hezbollah, or who stand alongside the Palestinian terrorist organizations.

Interviewer: We are a democracy. We have to maintain this principle even if we find it uncomfortable.

Netanyahu: America, too, is a democracy, and there Ahmad Tibi and Azmi Bishara would have been removed a long time ago. Whoever stands on the side of Israel's foes must suffer the consequences. The Knesset cannot have individuals who identify with the destruction of Israel. In this sense, we are ultra-liberal, rather than being sane. It is not that we are shooting ourselves in the foot; it is as if we shot ourselves above the foot.

Interviewer: What about exchange of populations?

Netanyahu: With consent. We all would want that. The question is whether it is realistic. Do you think that anyone among Israeli Arabs would agree? Exchange of populations by consent is something that everybody favors, but there are things that at least at the moment do not appear likely to occur.

Interviewer: As prime minister, would you accept this arrangement.

Netanyahu: Is there someone who would not accept it? But I do not think it is feasible in the foreseeable future...

Interviewer: Would you have established a commission to investigate the events of October [2000]?

Netanyahu: No... because when people close down roads or fire at policemen, the state must act.⁹ I think that a commission of inquiry is a mistake that was taken for extraneous reasons and not for reasons of substance. My answer is no. I would definitely not set up such a commission.

One of the politicians at the extreme Right is undoubtedly MK *Avigdor Lieberman*, chairman of the Yisrael Beitenu political party group, who served as Minister of National Infrastructure in Sharon's Cabinet (now Minister of Transportation). Lieberman was born in Russia and immigrated to Israel in 1978. He served as director general of the Likud and of Prime Minister Netanyahu's office in 1996-1997. In January 1999, he founded the immigrants' party Yisrael Beitenu, which received four Knesset seats in the Fifteenth Knesset. In February 2000, Yisrael Beitenu joined with the far Right National Union party, a union of Moledet, Herut, and Tekuma. In September 2001, Lieberman suggested a political plan to Prime Minister Sharon that was titled, "Lieberman's Twelve-point Plan for a Political Solution." *Ma'ariv* published a draft of the plan in which Lieberman proposed that the political arrangement include transfer of some Arab citizens of Israel to the territory of the Palestinian Authority. In exchange, settlers from isolated settlements that will be dismantled would be transferred to Israel. The plan also demanded that Arab citizens of Israel give an unequivocal declaration of allegiance to the State of Israel in writing, and of their willingness to be conscripted into the army. Whoever does not make the declaration, he proposed, would immediately be removed to the territory of the Palestinian Authority. Section 12 of the plan dealt with the exchange of population. It stated as follows:⁹

The breakdown in the delicate relations between Jews and Arabs in Israel that has managed to last for 50 years, will not be mended once again... The presence of such a large minority with such clear ties to the other side ensures not only continuation of the friction between two populations but also the loss of Israeli control and sovereignty in places with large concentrations of Arabs, such as Umm al-Fahem... On the other hand, monolithic states are much more stable and [not] subject to national or religious-based internal tension... Therefore, I would not reject turning to the UN, the European community, and the United States to officially sponsor, maybe the first of its kind in history, separating populations within the borders of the present State of Israel. In such an arrangement, serious consideration should be given to evacuating some of the isolated communities in Gaza and in Judea and Samaria and their residents and moving them into Israel and evacuating Arab communities in Israel and moving them into Palestinian-held areas. Under these new arrangements, every resident of Israel, upon receiving an Israeli identity card, would be required to give a written

⁹ It is important to mention that during the October 2000 mass protests in Israel, the demonstrators did not fire shots at the police, and that no police officer was shot by demonstrators. On the other hand, thirteen Palestinian demonstrators were killed and hundreds of others were wounded by police gunfire.

¹⁰ Ben Caspit, "Transfer of Arabs from Israel to the Territories in Exchange for Settlers into Israel," *Ma'ariv*, 5 September 2001. See also, "Lieberman's Transfer: Settlers in Exchange for Arab Israelis," *Walla*, 5 September 2001.

declaration of his unequivocal allegiance to Israel and to being drafted into the IDF. Under the political arrangement, Arab residents who fail to do so would be removed to the Palestinian districts, at their choice.

To obtain a full appreciation of Lieberman's thinking about the Palestinian minority, it is necessary to refer to other comments he made. When interviewed on Channel Two's "Meet the Press" program, while he was minister of national infrastructure, Lieberman said:¹¹

I do not reject the transfer option. We don't have to escape reality. If you ask me, Israel's number one problem is not the Palestinian problem; it is first of all [the problem of] Arab citizens of the State of Israel. Those who identify as Palestinians will have to move to Palestine... We see the processes unfolding in Umm al-Fahem, including identifying with Bin Laden and Hezbollah and with all of Israel's enemies. Do I consider them citizens of the State of Israel? No! Do we have to settle the score with them? Yes! They have to find a place where they will feel comfortable.

On 30 August 2002, MK Lieberman published an article titled, "Bishara and Dahamshe First," in which he stated:¹²

The State of Israel was established for the Jewish people, and anyone who wants to live in Israel must respect its flag, anthem, and seal. Whoever cannot respect these symbols cannot be a citizen of the state and will have to detach himself from the state. In no country in the world, including the West, can the government withstand citizens of the state to proclaim independence day as Nakba [Catastrophe] Day.

We have every right as Jews to demand that the Arab minority be loyal to the State of Israel...

The events of October 2000 expressed the participation of Arab Israelis in the war their Palestinian brothers are waging in Judea, Samaria, and Gaza Strip. The incitement by the Arab leadership in Israel, Syria, at assemblies on the Temple Mount and at other sites is part of a process that we are trying to ignore...

Whoever wants to prevent this phenomenon must understand that Arab Israelis are the main problem, so Arab Israelis first. Every democratic state has a national minority. No democratic state accepts a national minority acting as a fifth column and taking advantage of democracy to destroy it. And we should place this acute dilemma before the Arab population.

The government of Israel must make a clear decision: whoever cannot accept the principle that the State of Israel is a Jewish state, whoever is not willing to

¹¹ Quoted in *Yediot Aharonot*, 28 December 2001.

¹² *Ma'ariv* (Weekend Supplement), 30 August 2002.

declare his allegiance to the Israeli flag and sing Israel's national anthem, cannot be a citizen of our state, and we shall act to get such an individual or individuals to leave our country for better or worse, as fast as possible.¹³

In addition to Lieberman's comments, statements made by MK *Binyamin Elon*, chair of Moledet and minister in Sharon's government, stand out. Elon is active in the far Right movements Gush Emunim and Zo Artzenu. He was elected to the Fourteenth Knesset in 1996 on the Moledet list. He entered the Fifteenth Knesset, as a member of the National Union party, when Benny Begin resigned from the Knesset.

In an interview with *Nekuda*, Elon explained the kind of transfer that he and his party sought to achieve.¹⁴ This philosophy includes "voluntary transfer," "transfer by consent," and "transfer during war." "Voluntary transfer," Elon explained, "is aiding Arabs to want to get onto buses, a kind of 'pushing them until they say 'I want to go'." With the "I want to go," Elon explained, "it

¹³ On Yisrael Beitenu's website, Lieberman wrote about "the minorities" in these words: "In my opinion, the problem of the Arab minority in Israel is much greater and dangerous than the problem we face with Arab countries, and even with the Palestinians, because it affects our very existence. History, even current events, proves that the problem of national minorities continues to threaten the world... the Arabs in Israel decided to bet that, in the long run, Israel's foes will win... the current situation is intolerable. Accepting it reflects the inability of the authorities to impose their rule over a portion of the citizens, and a state that reconciles itself to this inability determines its fate with its very own hands... The demands of Arab Israelis for autonomy in the Galilee or in the Triangle must be strongly opposed, preferably by a uniform Zionist front. These demands should be met as subversive acts for all intents... The current situation cannot continue. For ourselves and for the Arabs among us, we must make it clear to them that we do not intend to forego the Zionist-Jewish identity of the state, that we shall not compromise on this, and whoever threatens this identity will pay a heavy price. This point must be made unequivocally, otherwise it would be worthless..." Avigdor Lieberman, "Israel 2000: Reality and Ideology," www.beytenu.org.il/hacim.html.

¹⁴ In Chapter 13, under the heading "Separation of the Peoples and Population Transfer," Moledet's platform states: "A. Moledet supports separation of the peoples along the line of the Jordan River and voluntary transfer of population. The transfer of the Arab population to the other side of the Jordan river is a condition for genuine peace, while separation along the Green Line is dangerous and impractical... C. We shall achieve preservation of the Jewish majority in the Land of Israel in three ways : 1. Increasing the Jewish birthrate; 2. Encouraging emigration of Arabs living in Judea and Samaria [the West Bank], and in Gaza, and preventing Palestinians to return; 3. Encouraging Jewish immigration and actions to prevent Jews from leaving Israel... I. If Israel is attacked by any Arab country whatsoever, hostile individuals who hampered us in waging the war will be expelled from Judea, Samaria, and Gaza to the other side of the border and toward the attacking army, with the intention of hindering it and to prevent disturbances in our rear. We shall act in accordance with the law and to the international conventions that are binding on Israel." Chapter 14, titled "Arab Israelis," states, *inter alia*: "B. Arab Israelis must act with allegiance to the State of Israel and its laws. In order to fulfill their human rights, they must meet all the civil duties, such as military service, payment of taxes, building according to the planning and building laws... D. Israeli Arabs who do not fulfill their civil duties will be deemed 'residents' and will not be entitled to benefit from the civil rights such as to elect and to be elected and national insurance. A person who harms or debases the flag of the state and/or the symbol of the state and/or the anthem of the state will be deemed to have betrayed the state and will be prosecuted for his actions. This section applies to every person in the state... H. The Israeli citizenship and rights to national insurance will be revoked from any Israeli>>

is possible to maneuver politically and morally. For example, if I close your universities, I make living hard for you, until you want to leave.”¹⁵

Elon gave further details on “voluntary transfer” in another interview with *Ma’ariv*. Excerpts of the interview follow.¹⁶

Elon: The Arabs are the occupiers who came here in the seventh century. They are the foreign invader here, whereas I returned to my house, to my country, to my homeland. Period.

Interviewer: Even if you are right, you don’t bring about any practical solution. There is no way to implement the transfer that you believe in.

Elon: Transfer is clearly practical. Practicality is measured by the degree of firmness and by placing the subject on the agenda.

Interviewer: There is one Arab who will agree to transfer?

Elon: I managed, with Arafat’s help, to break the taboo over the subject of transfer. People speak about it everywhere today.

Interviewer: Speak about it, and not one Arab will agree to it.

Elon: I already see buds of success. I have good contacts in the American Congress and elsewhere in the world.

Interviewer: And you don’t have to get the Arabs’ consent?

Elon: No.

Interviewer: That is, transfer by compulsion.

Elon: I am talking about transfer by consent, which is not necessarily voluntary transfer. An atmosphere must exist around the world, primarily in America, that there cannot be peace in the region if we do not break up the political camps and if we do not reach regional consent on demographic change.

Interviewer: Americans, and even many Israelis, would respond and say that if you do not dismantle the settlements, there will not be peace.

Elon: Right, they and the Israeli Left say this, but they are not coping with the real problem, the refugee problem, that was created in 1948. As long as we do not cope with the problem of 1948, there will be neither peace nor justice in this

<<who provides assistance to terror or to the establishment of a Palestinian state, to undermining state security, such punishment being in addition to the punishment imposed on him by the court...” The platform does not expressly speak about the transfer of Arab citizens of Israel. See www.moledet.org.il/matza/matza3.htm [in Hebrew].

¹⁵ Quoted in Sari Makover, “How Transfer became a Concept that is Discussed Out Loud,” *Ma’ariv* (Weekend Supplement), 22 February 2002. Makover mentions July 2001 as the turning point in the public’s attitude toward transfer. It was then that MK Michael Kleiner submitted his proposed bill to encourage Arab emigration. Two months later, in September 2001, Minister of National Infrastructure Avigdor Lieberman proposed moving Arab citizens of Israel out of Israel in exchange for removing settlers. In October 2001, Minister of Tourism Rehavam Ze’evi, the head of Moledet, was assassinated, contributing to a favorable attitude among some of the Jewish public toward his life’s work and his political writings. In December 2001, the said interview with Elon was published. In January 2002, Moledet plastered Israel with posters proclaiming, “Only Transfer will Bring Peace.”

¹⁶ Dan Shilon, “Every Leftist Ultimately Becomes a Rightist, Moledet head MK Benny Elon in an Interview with Dan Shilon,” *Ma’ariv* (Weekend Supplement), 10 May 2002.

region.

Interviewer: This is the problem that you want to solve by transfer by compulsion?

Elon: No. I want to implement transfer by consent, which is not necessarily voluntary transfer.

Interviewer: That is semantics. Is there no other way? Why don't you try to open a new page in relations with the Palestinians?

Elon: There is no new page...

The distinction between “voluntary transfer” and “transfer by force” was supported by Attorney General Elyakim Rubinstein.¹⁷ Rubinstein stated that calling for “voluntary transfer” is not a criminal offense, but a subject for public debate. However, he emphasized that calling for the expulsion of Arabs, i.e., by the use of violent means, would call for criminal investigation. Rubinstein stated this position in a letter to the then-chair of the Knesset’s Constitution, Law and Justice Committee Ofir Pines-Paz (Labor). Pines-Paz had requested the Attorney General to direct the police to open an investigation against the Moledet party group and against the yeshiva Ateret Cohanim which had tried, according to press reports, to encourage the “voluntary transfer” of Palestinian residents of East Jerusalem. In response to Rubinstein’s statement, Pines-Paz charged that the Attorney General was legitimizing “voluntary transfer,” and that he was blurring the line rather than setting red lines.

Prof. Binyamin Neuberger, head of the Department of Democracy Studies at the Open University, wrote about Moledet’s philosophy of transfer and the party’s campaign that “only transfer will bring peace.”¹⁸

The first lie is in the choice of the word “transfer.” Everyone knows that Moledet intends to expel the Arab population. Why did someone like Rehavam Ze’evi, who was extremely fluent in Hebrew and even attacked persons who used foreign words, chose the English word “transfer” and not the Hebrew word *gerush* [expulsion]? The reason is that “transfer” is a softer word, and can disguise and blur the atrocities entailed in expelling a population... The use of this “soft” word makes it possible to deceive High Court justices, who would not allow a party to use expulsion as a banner in its race for the Knesset elections. The second lie is inherent in the concept “voluntary transfer”... The concept “voluntary transfer” is a contradiction in terms. If it is voluntary, it is not transfer. The third lie is “transfer by consent”... “Transfer by consent” is defined as transfer based on “agreement between states and not necessarily citizens regarding the exchanges of populations”... Like “transfer” and “voluntary transfer,” “transfer by consent”

¹⁷ *Ha'aretz*, 24 June 2002.

¹⁸ Binyamin Neuberger, “Think about the Words ‘Will be Transferred,’” *Ha'aretz*, 20 March 2002.

is a relatively moderate term, intended to prevent labeling Moledet as a racist party which would disqualify it from running for the Knesset... We see that MK Elon explicitly states that the consent is that of the states and not of the citizens... When Benny Elon recently spoke about another kind of transfer—"transfer in war"—he makes it clear that transfer is in reality expulsion. He explains "transfer in war" as follows: "Whoever starts war should not expect that he will be rewarded for his action. Arabs were transferred from here following the 1948 war and they are liable to create a similar fate for themselves following the war that they began a year and a half ago [al-Aqsa intifada]. The content and style ("were transferred") express Elon's true intentions.

The journalist B. Michael also wrote about the philosophy of Elon and his party:¹⁹

Moledet, which also supports transfer and is patently racist, managed to evade provisions of the statute by using the righteous terminology "voluntary transfer," but the loose-tongued interview that Benny Elon gave to the settler's newsletter destroyed once and for all the ground underlying this contention. Elon said clearly that "voluntary transfer" is nonsense, and from his verbal zigzagging comes the clear statement that his intention and the intention of his movement is violent transfer in wartime, forced expulsion of the residents of the refugee camps, or making their life so bitter that they will say, "We want to go"...

The historian and journalist Tom Segev wrote:²⁰

Former minister Benny Elon suggested this week that the current war be used to "evacuate" the refugee camps in the West Bank. Elon allowed this idea to be voiced on *Kol Israel* radio.

The historian Yehuda Bauer wrote:²¹

Benny Elon and Effie Eitam favor "voluntary transfer," that is, ethnic cleansing that will inevitably bring with it mass murder. Attempts to realize programs of this kind will lead to the end of democracy in Israel, and will endanger the very existence of the state.

The Arabic-language press reported that Moledet put up posters and distributed leaflets and stickers inciting against Arab citizens of Israel and supporting transfer. These posters were put up in the Negev, near the entrances to Arab villages and towns, on the roadside of main thoroughfares, and within the cities. The posters included slogans such as: "We are Here, They are There =

¹⁹ B. Michael, "Lines Forming the Image of Transfer," *Ynet*, 15 February 2002.

²⁰ T. Segev, *supra* note 7.

²¹ Yehuda Bauer, "Total Moral Destruction," *Ha'aretz*, 10 February 2002.

Transfer”; “Jordan is the Palestinian State”; “Transfer = Peace + Security”; and “No Arabs, No Terrorist Attacks.” In September 2002, Moledet set up a tent near Dimona [a town in the Negev], where they distributed this material and incited against what they called “the phenomenon of illegal building” by Arab citizens of Israel.²²

On 5 June 2002, Elon raised the issue of transfer in the Knesset for the first time.²³ Elon submitted a proposal to the agenda under the heading, “Only Transfer will Bring Peace.” During the debate, Elon said, *inter alia*, that, “Only if we complete the transfer that took place here in 1948” would it be possible to solve the refugee problem.

While Moledet is a small, marginal political party that has not managed to obtain many Knesset seats, Lieberman’s party has been widely supported by immigrants from the former Soviet Union. The National Religious Party (NRP) is also a major Rightist party, which enjoys strong support among religious Zionists. Effie Eitam, the current head of the NRP, assumed the leadership of the party directly after leaving his position in the army. Eitam, who served as minister-without-portfolio and minister of national infrastructure in Sharon’s government (he presently serves as minister of construction and housing), gave an interview to *Ha’aretz* before he was chosen to head the NRP and was appointed minister. Excerpts from the interview follow.²⁴

Interviewer: Are you for or against transfer?

Eitam: I am against easy solutions. I could tell you, let’s do transfer. Let’s take all these Arabs from Judea and Samaria and the Galilee and the Negev, and expel them. I think that is a solution that could be politically enticing. A lot of people are ready to listen to a statement like that today. But I do not make that statement because it is a prevarication. First of all, morally, I think that anyone who wants to live with us under the conditions of the State of Israel and under rules saying that Israel is a Jewish state, can live here. Transfer is something that it’s not right to talk about. I would not talk about it. I would not deal with it, either as a political option or as something that can now be swallowed from a moral point of view.

Interviewer: That is in the normal course of things, but what if a war breaks out?

Eitam: Yes. War is a game with different rules. I don’t think that professors who support peace feel uncomfortable in the Green House that is in the middle of the campus of Tel Aviv University and was once the mosque of Sheikh Munis village

²² See *Sawt Al-Haqq Wal-Hurriya*, 20 September 2002; and *al-Ahali*, 6 November 2002.

²³ The 314th sitting of the Fifteenth Knesset, 5 June 2002. At the end of the debate, five MKs voted in favor of placing the subject on the Knesset’s agenda, 10 MKs voted against, and one MK abstained. See “For the First Time: Transfer Presented in the Knesset,” *Ynet*, 5 June 2002.

²⁴ Ari Shavit, “Dear God, It’s Effie,” *Ha’aretz Magazine*, 22 March 2002.

[an Arab village that was destroyed in 1948].

Interviewer: So, in a war, the uprooting of the Palestinian population would be a possibility?

Eitam: The State of Israel will not force individuals to change their location. People who live in Judea and Samaria will live there and neither they nor their land nor their homes will be touched. But if a total war is forced on us, a zero-sum war, the result could be that there will be a similar Sheikh Munis somewhere else, too. I want to emphasize: I would not want that to happen. I see that as a bad and bitter result. I am not winking and not hinting. On the contrary, I am proposing a regional solution to prevent that. But if they do not meet us halfway, and if there is no regional solution and the Palestinian offensive continues, the dynamic will shift toward a total war that is liable to inflict a tragedy on the Palestinian people.

Interviewer: Are you talking about 1948 redux? A repeat of what happened in 1948 in the areas of Judea and Samaria?

Eitam: Yes, of course. If the alternative is the suicide of the State of Israel and if a war is forced on us, then in war, behave as in war. I can definitely see that as a consequence of a war, not many Arabs will remain here.

Interviewer: And what about the Israeli Arabs?

Eitam: Israel is making a big mistake with the Israeli Arabs. It is according legitimization to a process that cannot be seen other than as the Arab minority's betrayal of Israel. I say that the leadership of this minority led it to betray the covenant that it made with the State of Israel. Sheer betrayal. Therefore, if we do not place a warning sign in front of the Israeli Arabs, they are liable to cross lines that we will then have to demarcate anew, and we will be forced to engage in a very difficult struggle with people who are citizens of the country.

Interviewer: What are you actually saying?

Eitam: I am saying that the Israeli Arabs are in large measure the ticking bomb beneath the whole democratic Israeli order inside the Green Line. Even today, in the Galilee and the Negev, a de facto autonomy of theirs is being created, which could in practice turn Israel into the bubble of Metropolitan Tel Aviv. Into a kind of pipe-state: a country of the Jerusalem-Tel Aviv-Haifa road. Therefore, I say that the State of Israel today faces an existential threat that is characterized by being an elusive threat, and elusive threats by their nature resemble cancer. Cancer is a type of illness in which most of the people who die from it die because they were diagnosed too late. By the time you grasp the size of the threat, it is already too late to deal with it.

Interviewer: Cancer?

Eitam: What I said on this point at the University of Haifa was not properly understood.²⁵ I did not mean that Arab Israelis as individuals are a cancer. I meant that we are facing a threat that is not like a knife wound or gunshot wound.

What is the essence of this threat? Illegal construction, alternative systems of education, armed groups that do not yield to the authority of the state? Each of these on its own seems a tiny matter with which the state can cope. But the cumulative effect of all these kinds of actions is a challenge to the state. For what is cancer ultimately? It is the slightly more rapid dividing up of cells, it is a threat disguised as living material. It seems like nothing. Here illegal building, there incitement. But suddenly you find that the control of the state of Israel increasingly fades from whole areas within the Green Line. The cells that went out of control and metastasized.

Interviewer: In your opinion, Arab Israelis are turning into a fifth column?

Eitam: I think so. Certainly. And I am not in favor of depriving them of the right to vote. On the contrary. But I think that Arab Israelis and we are at a watershed. We cannot continue to close our eyes to this. But I say that the current leadership of the Israeli Arabs will bring us and them into a frontal clash in which we will have to reconsider the ability of Israeli democracy to permit that public to go on taking part in it.

Interviewer: So, according to your viewpoint, the Israeli Arabs, too, are liable to find themselves not here?

Eitam: The Israeli Arabs will remain citizens of the state if they do not cross the red lines. It's possible that when a Palestinian state is established in Jordan and Sinai, they will prefer to move their right to vote to the place where the fate of their people is decided, but that is still a long way off. It is still too soon to deal with it.²⁶

Following Shavit's interview with Eitam, the journalist Avirama Golan wrote:²⁷

Eitam can say such caustic things because he senses very well what creates Israeli frustration; the fear of Arabs, the concern that perhaps "the state is over with," the weakness of the moral reason underlying Zionism. He managed to use all these to formulate a total method of thinking that consolidates, along crudely drawn lines, one problem: the Arabs in Israel. Eitam does not give any

²⁵ At a conference at the University of Haifa on the subject, "The City in the Twenty-first Century in the Shadow of the War," Eitam said that the Arab communities in the Galilee are cancerous cells in the body of the state. See *Fasl al-Maqal*, 14 February 2002. On 5 April 2002, Eitam said to *Yediot Aharonot*, "They [the Arabs] are in large part a ticking bomb under every democratic and Israeli arrangement within the Green Line. This existential threat is characterized by the fact this it is an elusive threat. And by their nature, elusive threats are similar to cancer." See also Ali Haider, "Hatred, Rejection and Racism: Treatment of Arab Citizens by Israeli Politicians and the Israeli Establishment," pp. 43-51, *The Sikkuy Report for 2001-2002*, Shalom Dichter and As'ad Ghanem, eds. (Sikkuy, June 2002).

²⁶ See also another interview with Eitam: Chen Kots-Bar and Yoav Limor, "I do not Eat Arabs for Breakfast," *Ma'ariv* (Weekend Supplement), 12 January 2001.

²⁷ Avirama Golan, "Building on Frustration," *Ha'arets*, 26 March 2002.

sense of agreement of normality and of cultured society. He takes everything and crumbles it with a crude stomp of his foot. The Arabs are also a ticking bomb, as well as a cancer, and also traitors. With such nonsensical talk, he upsets the public debate and crosses the delicate line of separation between Palestinians in the Occupied Territories and Arabs in Israel...

MK *Michael Kleiner*, leader of the Herut party, who started his political career as an MK in the Likud party, is undoubtedly at the far Right of the Israeli political spectrum. As discussed in Chapter 1, Kleiner's proposed bills and political actions indicate that he views the Palestinian minority as the primary threat to the state. Kleiner has followed in the footsteps of Rabbi Kahane and Kahane's party, Kach. He views himself as the address for voters who since the death of Kahane, "have nobody to vote for," as he puts it. In early November 2001, Kleiner gave a speech, titled "The Beautiful and Beneficial Steps in the Philosophy of Rabbi Kahane," at a memorial service marking the anniversary of Kahane's death.²⁸ Kleiner also maintains close contacts with individuals who praised Kahane's actions; these individuals are frequent visitors to Kleiner's office in the Knesset. Kleiner gives them permits to enter the Knesset building, and wages legal and parliamentary battles on their behalf. For example, as noted in Chapter 1, Kleiner has acted to remove Kach from the list of terrorist organizations. In the elections to the Sixteenth Knesset, Baruch Marzel, Rabbi Kahane's parliamentary assistant and a leader of Kach, was given the second slot on Herut's list.²⁹ *Ha'aretz* published a lengthy article and interview with Kleiner in November 2002. An excerpt from this article follows.

Kleiner doesn't understand. He simply thinks that the state should take a number of steps that will ensure that there are more Jews and fewer Arabs here. For example, by encouraging emigration of Arabs. To that end, he submitted a bill [see Chapter 1]... He is convinced that "there are hardly any Israeli Arabs; there are Israel-hating Palestinians who hold Israeli citizenship." This being the case, after he thins them out with the help of a financial grant, he will make sure that those who remain think twice about whether they have any reason to stay, either. With this in mind, he formulated another bill: making the right to vote and receiving a certificate of citizenship contingent on an oath of allegiance to

²⁸ Along with important rabbis and other MKs, Kleiner participated in a memorial ceremony for Kahane. Those present included MK Haim Druckman (NRP); Rabbi Zalman Melamed, the head of the Committee of Rabbis of YESHA [West Bank and Gaza]; Rabbi Shlomo Aviner; and Rabbi Yaakov Yosef, son of the leader of Shas, Rabbi Ovadia Yosef. Many of the speakers said that the events of recent years had shown that Rabbi Kahane's political-religious philosophy was correct. See "MKs and Dozens of Rabbis Take Part in Memorial Ceremonies for Meir Kahane," *Ha'aretz*, 25 October 2002.

²⁹ "Marzel—Number 2 on Kleiner's Herut List," *Ha'aretz*, 11 December 2002. Herut failed to garner sufficient votes to enter the Sixteenth Knesset.

the Jewish state, the flag and the national anthem [see Chapter 1]... “I want to remove all the hostile and disloyal people from the political game.” ... He is convinced that the paramount problem threatening Israel’s existence is the demographic balance in the country, and he is determined to do something about it. Surprisingly, this point of departure leads him to oppose the “transfer” idea. Not, heaven forbid, on moral grounds: “Transfer is a gimmick. It is not a serious solution... Beyond the fact that it’s not realistic to carry out a transfer now, the fact is that even if there is transfer there will still be more than a million Palestinians who don’t want us here within the borders of Israel, and within half a generation we will again find ourselves in a demographically inferior situation ... We have to cope in a far more thorough fashion with this problem.” Kleiner suggests that this coping be done by means of a special ministry for demographic affairs (he will be pleased to head it), which he likens to the function of a kind of demographic “accountant.” The idea would be to try to increase the revenues (Jews) and reduce expenses (Arabs). Kleiner, evoking the “iron wall” concept of Ze’ev Jabotinsky, the founder of the Revisionist movement that was the forerunner of the original Herut—urges the creation of a “demographic wall.” According to this plan, the ministry of demographics would encourage Jews to have more children and assist Jewish singles to meet potential partners in order to bring about the birth of as many children as possible of the right race.³⁰

Kleiner is one of the most caustic MKs in making comments against Arab MKs. For example, following the comments of MK Azmi Bishara (NDA) at the memorial service for the late Syrian president Hafez al-Assad, Kleiner said that, “in any normal country he would be brought before a firing squad.” In the *Ha’aretz* interview quoted above, Kleiner explained what he meant when he made this statement:

In my opinion, Bishara *prima facie* is in breach of the law that constitutes treason. I think that he should be placed on trial, and if convicted, I believe there is good chance that he will be sentenced to death. In that case, the appropriate death is at the hands of a firing squad, because a firing squad is identified with treason, as in the case of [the Romanian dictator Nicolae] Ceausescu. The electric chair is associated more with criminal affairs.

Following dissolution of the Fifteenth Knesset, Kleiner and his party started a campaign with the slogan, “Herut under the Leadership of Michael Kleiner—the Response to Tibi and Bishara.”

The politicians on the Center-Right (Likud), like those on the Center-Left

³⁰ Aviv Lavie, “Moving Right Along,” *Ha’aretz English Edition* (Weekend Supplement), 22 November 2002.

(Labor), carefully choose their words and try to mask their intentions (unlike the far Right, which only makes sure that it does not cross the line that will lead to their parties being banned). MK *Uzi Landau* (Likud), Minister of Internal Security in Sharon's government, is a hawk, who does not hesitate to speak out in a caustic manner. In an interview he gave to *Ynet* on 28 September 2002, Landau distinguished between Jews who commit acts of terror against Arabs, and Arabs who commit acts of terror against Jews. By implication, the distinction justifies and expresses an understanding for the actions taken by Jewish terrorists. He mentioned that he was seeking to pass a law that would revoke the Israeli citizenship, national insurance rights, and health insurance of the families of Arab citizens of Israel who assist in the execution of suicide attacks. He also mentioned that consideration should be given to confiscating the property of families who assisted in these kinds of acts. An excerpt from the interview follows.

Interviewer: Recently, another bomb was laid in a Palestinian school. Should Jews who commit terrorist attacks against Arabs be treated in the same manner that we treat Palestinian terrorists?

Landau: Although the acts are serious, they still do not reach the level of the Palestinian terrorists. If left with no option, and to attain the maximum from the law regarding the violation of rights, so that it passes, I have to make them equal to terrorists. I will do it, although I do not think they are equal. Their acts are done in response, because they attack us. The Jewish attackers cannot take the "crown" from Hamas and Islamic Jihad. Even Baruch Goldstein [the Israeli settler who committed the massacre in al-Haram al-Ibrahimi—the Tomb of the Patriarchs—in al-Khalil in February 1994, killing 29 worshippers- N.S.] committed his act in response to an act of Palestinian terrorists. However, I have nothing good to say about him and his deeds.

In response to Landau's comments, the journalist Meir Stiglitz wrote, "When an Israeli government minister says this... he places himself in the lowest ranks of human morality."³¹

As the above quotations illustrate, sometimes the opposition to transfer is not based on moral grounds but arises from the difficulty in actually realizing the objective. The impression received from the comments of the public figures is that transfer is the wish of the public. For example, this fact is implicit in the comments of MK *Eli Yishai*, chairman of Shas and Minister of Interior in Sharon's first cabinet. Shas has been one of the most influential parties in Israeli politics in recent years, and has sat in almost every government since it

³¹ Meir Stiglitz, "No Compassion for the School Pupils," *Yediot Aharonot* (Twenty-four Hours), 6 October 2002.

was founded in 1984. In an interview with *Ma'ariv*, Yishai said the following:³²

Transfer, which is supported by the parties on the Right, is not realistic. They also know it is unrealistic, so they talk about voluntary transfer. There is no such thing as voluntary transfer. Who would want to leave here? I am not answering the question whether I support transfer, because I do not speak about things that are unrealistic. Clearly, I would be happy if 100,000 Palestinians would leave the country. If tomorrow people approached me as minister of interior and asked to leave, I would say, "As you wish." If they want to live in other countries, in Europe or in Islamic countries, on with it. I believe that even people on the Left will not oppose such a proposal.

In an interview with *Ma'ariv* a few days later, on 13 November 2002, Yishai said:³³

I want that non-Jews will not live in this country... Immigrants who are gentiles are coming, foreign workers are coming, and with the Arabs we will turn into a multi-national state.

At times, religious motifs are employed to provide support for the demonization and dehumanization of Palestinians. MK *Nissim Dahan*, who served as health minister in Sharon's first government, is also from Shas. In late September 2002, during a visit to a museum in the Jewish Quarter in Jerusalem's Old City, he said that the Muslims praying at al-Aqsa mosque, who also include Palestinian citizens of Israel, "are foxes who moved up a level, and are now snakes and scorpions." The minister added: "They move about here today with confidence... But with the help of the Almighty, we shall know better days. We shall know who is the master and who are the slaves." These comments raised almost no public comment. They were made in the presence of Jerusalem's mayor, Ehud Olmert; the chief rabbi of Israel, Rabbi Meir Lau; and Minister Natan Sharansky, but none of them were reported to have protested Dahan's comments.³⁴ The journalist Yaron London wrote about the statement made by Dahan:

These are code words to be understood literally. The code is found in Lamentations, which is a collection of lamentations on the destruction of Jerusalem that are invoked on the ninth of Av [the date of the Temple's destruction according to the Hebrew calendar]. The verse that was ringing in the head of the minister is, "For this our heart is faint; for these things our eyes are dim.

³² Shlomo Tzezna, "I would be Happy if 100,000 Palestinians would Leave," *Ma'ariv*, 7 November 2002.

³³ *Ma'ariv*, 13 November 2002.

³⁴ B. Michael, "Jewish Master, Canaanite Slave," *Yediot Aharonot* (Holiday Supplement), 27 September 2002.

Because of the mountains of Zion, which are desolate, the foxes walk upon it.” Support for the assumption of the source of his inspiration is the site at whose groundbreaking he made his comments: a museum founded on the ruins of a dwelling that went up in flames in the revolt against the Romans... This is racism in the harshest sense of the term.³⁵

The spokesman of the Minister of Health said in reply that the minister, “was not referring to the Palestinian people and certainly not to Muslim worshippers. His intention was, like snakes and foxes, it is impossible to rely on the Palestinian leaders because of their involvement in terror.”³⁶

Racism is not only conspicuous among politicians at the national level, but it is also prevalent among mayors. *Zvi Barr*, mayor of Ramat Gan, a former commander of the Israeli army’s officers training school and of the Border Police, and the former head of intelligence in the Israel police force, published an article in *Ma’ariv* in which he combined the disguised expulsion proposal and other proposals to limit the influence of Arab citizens in Israel over decision-making in the country. Excerpts from the article follow.³⁷

In recent months, many of us opened our eyes—especially those who sought “peace at any price”—regarding the “partner” whom we face on the Palestinian side. In the same manner, I suggest that we quickly open our eyes and place on the national agenda the subject of the life we live jointly with Arab Israelis, especially after they took an active part in Nakba [Catastrophe] Day, the new Palestinian event that marks their mourning over the establishment of the State of Israel.

If we continue to push this subject aside, we shall find ourselves within two to four decades as a minority, with the majority here being Arab Israelis, and they will be able to do as they please: change the flag, the anthem, and maybe also the name of the state.

With this as a background, and in order to prevent a demographic calamity that is liable to cost us our hold and control over this country, one significant measure must be taken: changing our method of elections. The current political situation, in which the two large parties are sitting together in a unity government, is the proper and most suitable time to do this.

We have to create a new method of administration, in which 120 election districts are established, including election districts in the Arab sector. Charles de Gaulle used this method, in a legitimate and democratic manner, to solve the problem

³⁵ Yaron London, “Jewish Minister is Racist,” *Yediot Aharonot*, 25 September 2002.

³⁶ “Anger in Egypt over ‘Snakes and Foxes’ Speech of Minister Dahan,” *Walla*, 26 September 2002.

³⁷ Zvi Barr, “Change in Method of Elections or Demographic Calamity,” *Ma’ariv* (Weekend Supplement), 25 May 2001.

of power held by the French Communists. In this way, we can bring about, in a democratic manner, the situation in which the Arab sector will not be able to determine in the future how we live our lives here...

Arab Israelis will be given five to six election districts based on geographic and demographic data, which will ensure them perpetual and respectable representation in the Knesset, and maybe also in the government (there is no reason why there should not be an Arab minister in every government!). This will also arrange the matter for the generations that follow us and will ensure continued control and set the course of the life and future of our country.

Furthermore, in considering the establishment of the election districts, I suggest that residents of Umm al-Fahem, Jatt, and Taybeh (the towns that we received in the framework of the Rhodes Agreements of 1949) remain where they are, but to fulfill their dream, separate from us and become part of the Palestinian Authority. In other words: their identity will be Palestinian, and they will vote for the [Palestinian] Authority and for the Palestinian state, when it is established.

Former politicians also occasionally contribute to the racial incitement. One example is the case of *Raphael Eitan*, who served as chief-of-staff during the 1982 war in Lebanon, as an MK and chairman of the political party Tsomet, and as a minister.³⁸ In an interview in September 2002, Eitan said:³⁹

Oslo [the Oslo Accords] is the biggest fraud ever perpetrated on the planet. Fools, thinking like Poles [Jews from Polish origin], but going to talk with Arabs. They do not understand that Arabs will murder anyone they have the chance to murder. Whether the person is a child, an elderly person, a politician, or a soldier. I don't believe a word that any of them says. There will never be peace with them. Never. These Leftists, who say "peace, peace, peace," should first evacuate their kibbutzim that sit on Arab land, and give it back. What, the Arabs are fools?... My counting begins from biblical times. The origin of the Arabs is in Saudi Arabia. They forced their way into here. There were always Jews here, from 70,000 to 100,000. On the eve of the War of Independence, there were one million Arabs and 600,000 Jews. Almost the same number. Jews have been murdered here since 1900, they fired on Mikveh Yisrael in 1870, and why? Because we are a foreign culture, a culture other than Islam. And with another culture, there is no peace or anything, until the end of time. There are no compromises to be made. What will occur is that we shall weaken them until they are routed, and they understand that it is impossible to defeat us, and consider finding another way.

³⁸ Tsomet did not manage to garner sufficient votes to enter the Fifteenth Knesset. When the Fifteenth Knesset was dissolved, in October 2002, the party announced that it would submit a list for the elections to the Sixteenth Knesset, but it failed again.

³⁹ Ety Abramov, "The Media is Worse than an Exploding Terrorist," *Tel-Aviv*, 13 September 2002.

Racism is also prevalent among senior civil servants, who are supposed to be professionals and serve the population under their charge. *Moshe Shohat*, head of the Bedouin Education Authority (BEA)⁴⁰ for 16 years, told the New York-based newspaper, *The Jewish Week*, that the Bedouin are a “blood-thirsty Bedouins who commit polygamy, have 30 children, and continue to expand their illegal settlements, taking over state land... In their culture they take care of their needs outdoors. They don’t even know how to flush a toilet.”⁴¹ An individual who holds these opinions toward a certain group should certainly not have responsibility over crucial matters affecting that group. Therefore, following these racist remarks, and in light of the refusal of the Ministry of Education to dismiss Shohat, on 23 September 2001, 49 petitioners, represented by Adalah: The Legal Center for Arab Minority Rights in Israel, petitioned the Supreme Court to fire him.⁴² It was finally decided to fire Shohat. The Ministry of Education mentioned that he was not fired for the comments he made, but because he was guilty of mismanagement and misuse of funds.⁴³ Despite this decision, as of June 2003, Shohat is still in office.

⁴⁰ The Bedouin Education Authority was founded in 1981 to serve the Palestinian Bedouin population living in the unrecognized villages in the Negev.

⁴¹ Robby Berman, “Israeli Official Slurs Bedouins,” *The Jewish Week*, 20 July 2001, and “Bedouin Probe Seen as ‘Farce’,” *The Jewish Week*, 17 August 2001.

⁴² H.C. 7383/01, *Megel el-Hawashleh, et. al. v. Limor Livnat, Minister of Education, et. al.* Case pending.

⁴³ Adalah News Update, 29 March 2002.

The academic community

Not only politicians practice racism and hatred; Academics and journalists also contribute their fair share. For three decades, Prof. *Arnon Sofer*, a lecturer at the University of Haifa, who is nicknamed “counter of [sofer in Hebrew] Arabs,” has warned against “the demographic danger” resulting from the Arabs’ high birthrate.⁴⁴ In an interview with the University of Haifa Student Union’s newspaper *Pesek Zman* in December 2001, Sofer said that it is necessary to “set up ghettos” around Arab towns and villages in Israel. He described his proposal to annex the villages in the Triangle and Arabs of East Jerusalem into the Palestinian state in order to “eliminate the demographic threat facing us.” In reply to the question of what we should do if the residents in these communities refuse, he said: “They don’t want to move [and be annexed to the Palestinian state]—no problem, we shall put them in ghettos around their villages... Yes, precisely that, ghettos. I am not embarrassed to say this. A social-economic ghetto around the areas in which they live. We shall give them autonomy there, and close them in from all sides.”

Sofer added that the Arab students at the university are “Israelis in appearance only,” and that “here [at the University of Haifa], it is possible to recognize the enemy during three years of study for a degree.” Sofer also contended that the female Arab students who return to their homes are exposed to “beating and abuse” by their families.

After the interview was published, there was an outburst of criticism. In response, Sofer said that the interview was “full of errors” and was a “distortion” of his views. The newspaper’s editor and the interviewer of Sofer, Hagai Feingold, said that Sofer’s statements were quoted precisely.⁴⁵

⁴⁴ In an interview with David Grossman in 1992, Sofer proposed an exchange of territory whereby the southern Triangle area (Umm al-Fahem and its neighboring villages) would be transferred to a future Palestinian state in exchange for West Bank lands. As for the Arab population in the Galilee, Sofer said, “If there’s a role for population transfer to play in this country, it’s not with the inhabitants of the West Bank and Gaza Strip. It’s with the lower Galilee. If!” This is true, *inter alia*, because, “the extent of the Arabs’ allegiance to the state will ... depend precisely on the distance of the Syrian tanks from the border!” Also, Sofer proposes using the method of “divide and rule,” that is, “Cultivate the Bedouin. Cultivate the Druze. The Christians. And give. Give to whoever is good to us. If he feels good, he won’t want to rebel against us ... and reinforce the Shin Bet, and the police and the border guard!. A Shin Bet and police state, yes! Without any window dressing. There’s no choice. We really are doomed to make a Sparta here. A country with a military landscape! And bang in wedges! Put new settlements between them wherever you can... so that as much as possible they don’t have territorial continuity.” David Grossman, *Sleeping on a Wire*, trans. Haim Watzman (New York: Farrar, Straus and Giroux, 1993), pp. 190–205. See also, Arnon Sofer, *Israel—Demography 2000–2020, Risks and Possibilities* (University of Haifa, 2000).

⁴⁵ “Professor at University of Haifa: Set up Ghettos for Israeli Arabs,” *Walla*, 28 December 2001. See also, “Professor at University of Haifa: Annex Israeli Arabs to Palestinian State or Close Them up in Ghettos,” *Ha’aretz*, 28 December 2001; “Storms of Racism will not Break Us,” *Zman Haifa* (*Ma’ariv*’s weekly for the Haifa area), 3 January 2002.

Shlomo Gazit, head of Military Intelligence from 1974-1979 and a researcher at the Jaffee Center for Strategic Studies at Tel Aviv University, said in March 2001 that in light of the birthrate among Arab citizens of Israel, which is higher than the Jewish birthrate, "the demographic danger is the greatest risk facing Israel." Gazit added that, "if Israel does not take the necessary measures, the State of Israel would cease to be a Zionist Jewish state within one or two generations at the most." Thus, Gazit proposed that an emergency, undemocratic regime be established to solve the problem. According to Gazit, an emergency regime would enable the state to take measures that it could not do under the current regime.⁴⁶

Benny Morris, one of Israel's most famous historians, wrote in October 2002 that Israel could now have been at peace if David Ben-Gurion had expelled all the Palestinians during the 1948 war. In Morris' words:⁴⁷

One wonders what Ben-Gurion - who probably could have engineered a comprehensive rather than a partial transfer in 1948, but refrained - would have made of all this, were he somehow resurrected. Perhaps he would now regret his restraint. Perhaps, had he gone the whole hog, today's Middle East would be a healthier, less violent place, with a Jewish state between Jordan and the Mediterranean and a Palestinian Arab state in Transjordan. Alternatively, Arab success in the 1948 war, with the Jews driven into the sea, would have obtained the same, historically calming result. Perhaps it was the very indecisiveness of the geographical and demographic outcome of 1948 that underlies the persisting tragedy of Palestine.

In an interview in November 2001, Morris defined Palestinian citizens of Israel as a "danger to the state's existence".⁴⁸

The Arab minority is in the process of detaching itself from the State of Israel, of autonomy, at first cultural and then political, and after that possibly by severing lands from the State of Israel, in essence a challenge to the state by the growing Arab minority. The Arab minority is a danger to the existence of the state. A small danger today, which for demographic reasons can turn into an existential danger in the not too distant future.

He believes that there are two solutions to the problem: 1) annex blocks of Arab

⁴⁶ Gazit made these comments at a meeting of the Jewish Agency held in Ma'aleh Hahamisha, a kibbutz near Jerusalem. He repeated some of his statements in an article he published in *Yediot Aharonot* on 28 March 2001. See also, Shlomo Gazit, "Separating from Unilateral Separation," *Ynet*, 20 August 2001; and Amnon Dankner, "The Great Threat against the Zionist Dream," *Ma'ariv* (Weekend Supplement), 6 April 2002.

⁴⁷ Benny Morris, "A New Exodus for the Middle East?," *The Guardian*, 3 October 2002.

⁴⁸ Meron Rapoport, "The Arabs are the Same Arabs," *Yediot Aharonot* (Weekend Supplement), 11 November 2001.

communities into the Palestinian state or into neighboring Arab states; or 2) “the Arabs will want to leave the state, this too can happen.” The first option is less pleasant because it would decrease the size of the state.

The second option—that the Arabs leave—can occur if the relations between Jews and Arabs continue as they are. Everything depends on the degree of hostility that the Arabs show toward the Jews and the State of Israel. If terror attacks and civil insurrection continue, similar to that day [sic] in which 13 individuals were killed [October 2000], this may be a strategic problem for the security forces. Not only a tactical problem.

In an article published in *Ha'aretz* in April 2002, other supporters of transfer stated their opinions on the subject.⁴⁹

The first of these supporters was Prof. *Ariyeh Eldad*, who served as chief medical officer of the Israeli army from 1997 to 2000. He was also the head of the plastic surgery department at Hadassah Hospital in Jerusalem, and a member of the right-wing group Professors for Political Strength.⁵⁰ He is now an MK in the National Union list as a member of Moledet. The article quoted him as follows: “There is no absolute justice in a struggle between two peoples, the justice is relative—ours takes priority over theirs. Transfer, for example, is a small injustice (to them) that prevents a great injustice (to us)... Transfer by compulsion will not take place here,” Prof. Eldad sighed, “not by a march, or by buses, or by trucks. A Jew is incapable of taking people and uprooting them.” Eldad also thinks that it is impossible to implement “transfer by consent,” for example, in exchange for payment. But “transfer in war,” yes. “War will expel him [the Palestinian]. Shock and life-threatening dangers will force him to flee the home in which his family has lived for hundreds of years.” He contended that the Leftists would remain silent if, “the war that expels the Palestinians occurs in response to a destructive action of theirs.” What is a “destructive action”? “In response to something big, to a chemical or biological attack, or mass killing, hundreds of dead.” Until such a mass killing takes place, he has a detailed, somewhat updated, scenario: the Hezbollah fire missiles at cities in the Galilee, Arab Israelis attack the Emergency Depot Units and burn them, “and then it would be simply necessary to bomb them from the air. We will bomb population centers, in Nablus, Hebron, and Gaza,” he says, “there will be mass flight, they will flee to Jordan, but Jordanian police will fire at them to prevent them from entering.” The transfer will thus be a kind of “result of a catastrophe.”

Another supporter quoted in the article was the historian and Holocaust

⁴⁹ Yossi Klein, “How do you like your Transfer,” *Ha'aretz*, 24 April 2002.

⁵⁰ See another interview with Eldad: Lili Galili, “Transfer? I have no Moral Problem with It,” *Ha'aretz*, 12 December 2002.

researcher, Dr. *Yitzhak Arad*. Arad served as an officer in the armored forces, chief education officer in the Israeli army, and chairman of Yad Vashem. Arad dismissed the idea of “voluntary transfer” because it was “unrealistic.” He, too, would like “the Arabs to disappear,” but added that the world would not allow this to occur.

The Herzliya Conference and the Strategic Forum

Academics and Zionist policy planners began to face the question of demography. Their concern grew appreciably after the mass protests of October 2000. During the period covered by this report, two groups stood out in this field.⁵¹ The first group was the Institute of Policy and Strategy (IPS), which sponsors the conference on “The Balance of Israel’s National Strength and Security.”⁵² The Institute first held the conference in December 2000 at the Herzliya Interdisciplinary Center, and it has since become a prestigious gathering of key academics, politicians, and security officials where issues of national security, foreign policy, and strategic planning are discussed. The annual conference is closed to the general public. The first conference dedicated much of its time to demographics. A paper summarizing the discussions stated clear conclusions.

The second group is the Strategic Forum for the Advancement of the Jewish Character of Israel (“Strategic Forum”). This group was founded by the Zionist Council, a body of the World Zionist Organization that deals with promoting Zionist activity in Israel.

For the most part, the key leaders of the IPS and the Strategic Forum are the same people, and their recommendations are similar. The leading figures in both groups are Prof. Yehezkel Dror, who teaches public planning and administration at the Hebrew University, Jerusalem, and is chairman of the Strategic Forum; Dr. Uzi Arad, who served as political advisor to Prime Minister Binyamin Netanyahu, a former head of the Mossad’s research department, head of the Herzliya Conference and drafter of its conclusions; and Prof. Arnon Sofer of the University of Haifa. These and the other individuals involved with the IPS and the Strategic Forum are well respected by decision makers in Israel. They raise ideas and propose suggestions to the highest echelons of Israeli officials. The conclusions of the Herzliya Conference were submitted to President Moshe Katzav. IPS and Strategic Forum members also draft proposed Knesset bills in the spirit of their recommendations and act to ensure their passage.

At these two forums, the following recommendations are repeatedly raised:⁵³

1. Develop a policy to encourage a birthrate that reaches a third and fourth child in families, and cancellation of benefits starting with the fifth child (the reason being that giving benefits for a “fifth child and more gives

⁵¹ Yair Sheleg, “First of All Jewish, then Democratic,” *Ha’aretz*, 16 April 2002.

⁵² See the conference website: www.herzliyaconference.org.

⁵³ *Balance of National Strength and Security, Policy Directions* (Herzliya Conference and Herzliya Interdisciplinary Center, 2001), pp. 4-7.

preference to Arab families, even in comparison with ultra-Orthodox Jewish families,” as one of the members of these groups explained to *Ha'aretz*).

2. Exchange lands held by settlements for Arab communities located near the Green Line, in the Triangle, East Jerusalem, and Bedouin areas in the northern Negev. The Herzliya Conference made this recommendation, which later became an official proposal raised by Minister Ephraim Sneh, as mentioned above.
3. Disperse the Jewish population in the state “to problem areas in terms of demography—particularly the Galilee, the Jezreel Valley, and the Negev,” and regarding the Palestinian population in the Occupied Territories: “it will be necessary to find a way that is not in the State of Israel (maybe east to Jordan), if it [the Palestinian population] does not cut back its birthrate.” The documents also call on the international community to condition its assistance to the Palestinian Authority (PA) on the PA’s adoption of a policy to reduce the birthrate “like it did regarding Egypt.”
4. Give Arab citizens in Israel the option of choosing between full citizenship in Israel and citizenship in the Palestinian Authority, with the right of permanent residency in Israel. The Herzliya Conference simultaneously called for enabling Israelis living abroad to vote in Israeli elections by absentee ballot.

In response to the question if Palestinian sovereignty will be forced on Arab citizens living near the Green Line, despite their known opposition to the proposal, Arad stated:⁵⁴

In a democratic state, it is the majority that determines where the national borders lie. Just as the government can decide to withdraw from territories in Judea and Samaria, it can decide on land exchanges anywhere else in the country. If the matter is decided in accordance with democratic procedures, perhaps in this case two-thirds majority, and the populations in question are compensated, I don’t see any problem here. If these people want to remain Israeli citizens, we can suggest that they move to another part of the country, but they can’t sit in Umm al-Fahem and dictate who has sovereignty.

⁵⁴ Yair Sheleg, “Beware, Arabs,” *Ha'aretz*, 23 March 2001.

In the universities

The university is an integral part of Israeli society. It affects the processes that the society undergoes and is, in turn, affected by these processes. The Arabs who study in Israeli universities—there being no Arab university in the state—often encounter racism and hatred. In November 2002, the Technion—Israel Institute of Technology announced that for the first time in its history, a political movement was founded on the campus with the purpose of “expelling problematic Arabs” from the university. The ten student founders of this movement, Sela Yisrael [Students for the Future of Israel], contended that they were able to recruit dozens of students and a not insignificant number of instructors who supported their ideas and actions. A few months ago, the head of the movement met with Minister of Education Limor Livnat at Likud headquarters and received her blessing. In that same month, members of the movement demonstrated at the entrance to the Technion against what they contended was an Arab takeover of the website in the civil engineering department. They accused Arab students of changing the homepage to that of the Hamas and the Islamic Jihad. The activists said that dozens of students took part in the protest and distributed 1200 brochures. They also said that the instructors had sent them an e-mail congratulating them. Members of the movement contended that, “the Arab students move about in gangs, blocking our way”; “we suffer because of them—to go into the department, we have to undergo security checks”; “in the chemistry department, they teach Arabs about explosives”; “they [the Arab students] are waiting for an opportunity to do something”; “the Technion is creating a hothouse for terrorists”; “they receive bogus matriculation grades, at the expense of Jews”; “they should be thrown out, and their places given to others”; and “until they get a good smack in the head that will get them to stop, we won’t give up.”⁵⁵

One of the instructors at the Technion filed a complaint against two Arab students in the chemistry department, alleging that they had looked in a book in the department’s library which described how to prepare TNT with the “objective of making explosives.” In fact, an instructor in the chemistry department had told them to study the scientific literature in the library as they wished. These books are available for the use of all the students and are used in lectures.⁵⁶

The gravest problem in these matters is the cooperation between the universities and Israeli security officials, including in the area of research. In

⁵⁵ Shushan Manola, “Faculty for Racism,” *Kolbo* (Ha’aretz’s weekly for the Haifa area), 29 November 2002.

⁵⁶ *Ibid.*

January 2002, *Ha'aretz* exposed some of this cooperation.⁵⁷ A month before the article appeared, the University of Haifa granted a degree to Nachman Tal, who studied in the history department. Tal was a former senior GSS official, who served as the head of its Arab department in the 1980s. After leaving the GSS, he worked at the Jaffee Center for Strategic Studies at Tel Aviv University. Tal's doctoral dissertation was titled, "Shifts in Security Policy regarding the Arab Minority, 1948-1967."

The topic of Tal's dissertation was suggested by Ami Ayalon, the head of the GSS at the time, and was accepted with great delight by the university. The GSS set a few pre-conditions for Tal's dissertation and its academic review. According to the GSS, the dissertation would be confidential, i.e., it would not be made available to the general public; the dissertation advisors must have a high security clearance; and the individuals responsible for determining whether the dissertation meets the scientific-research criteria and standards and whether Tal deserved to receive his doctorate, also would have to hold high security clearance. The university accepted these pre-conditions. The dissertation was based in large part on documents from the GSS and from the Israeli army's Military Intelligence. According to the Archives Law—1955, the confidential documents may be made available to public review after thirty years, provided that they do not harm state security, Israel's foreign affairs, or the right of privacy. Contrary to the law, some bodies, such as the GSS, the Mossad, Nativ, and the Atomic Energy Commission, do not hand over their documents to the archives. According to press reports, Tal's dissertation concluded that the government's policy toward the Arabs was justified, but that the military administration imposed on the Arab minority in Israel from 1948-1966 could have ended long before 1966.

Tal told *Ha'aretz*:

The matters over which the political leadership pondered then were between a democratic state and meeting security needs that contradict democratic values. One of the questions that I asked in the dissertation was whether the era of struggle had ended for Arab Israelis, a subject that became especially relevant after the events of October 2000. All these questions are extremely sensitive, and publication of these documents now is liable to cause greater deterioration of relations with Arab states and with the Arab minority in Israel.

In the *Ha'aretz* article, Yossi Melman also wrote:⁵⁸

The prohibition on classified dissertations should be obvious. It affects the sacred principles of academic freedom: public debate and scientific criticism. If the

⁵⁷ Yossi Melman, "Doctorate of the GSS," *Ha'aretz*, 18 January 2002.

⁵⁸ *Ibid.*

research is secret, it cannot be debated in the open, it is impossible to check the truth and validity of the assumptions and conclusions, or whether the author was precise in his use of sources and quotations. Even if there is no doubt about the integrity and scientific judgment of those who sit in judgment on the classified dissertation, it is clear that they are liable to err, and such things have happened. Despite this, for years institutions of higher education have been willing to cooperate with Israel's defense establishment. This connection, which is undesirable in a democracy and does not help science and research to flourish, also exists in regular research and in the revolving-door phenomenon—officers from the research departments of Military Intelligence, the Mossad, and the Shabak [GSS] are active in research centers and university institutes, so much so that some of them appear to be secret agents of the intelligence community or of placement offices to find employment opportunities for their pensioners.

Another problem inherent in this cooperation is, of course, its effect on Arab students, who study under these instructors. It is difficult to conceive that after many years of service in the defense establishment, these instructors are able to free themselves of their security-based perspectives, which see Arabs as the foe and not as colleagues or students.

In addition to the link between the academy and state security, Israeli universities also are engulfed in the Zionist historical narrative. Therefore, it is very hard to challenge this narrative or encourage research ideas inconsistent with the Zionist consensus. A good example of this is evident in the case of Theodore (Teddy) Katz, a graduate student in the Middle East History Department of the University of Haifa. Katz submitted his masters thesis on the 1948 War, focusing on five villages situated on the coastline between Haifa and Hadera. Among these villages was Tantura, where in 1948, the village was destroyed and its residents were uprooted. The thesis also presented testimonies of Palestinians about soldiers in Israel's Alexandroni Brigade, and other soldiers who killed Arabs in non-combat actions in May 1948. The thesis was given the highest possible grade.

However, after the media reported about the massacre at Tantura, a group of individuals who belonged to the Alexandroni Brigade in 1948 sued Katz for libel. In January-February 2000, the university decided not to provide Katz with legal counsel, and indicated that it had no moral or legal responsibility for the results of his research. The university also removed Katz's name from the department's list of distinguished students, and he was not invited to the ceremony at which certificates were granted to graduate students. In April-June 2001, the university decided to set up two committees to examine the quotations that Katz included in his thesis and also the academic supervision procedures. The committees determined that the thesis was deeply flawed. As a result of

this finding, the university's Advanced Studies Council decided to reject Katz's masters thesis but to allow him to submit another paper in its place. The dean of the university ordered that Katz's thesis be removed from the university library. The matter ended when Katz agreed to rewrite the paper. He also lost the court suit, reaching a disputed settlement, which included an apology that he signed and later retracted.

The historian Ilan Pappé (University of Haifa), who researched the events, stated that one of the bloodiest massacres of the 1948 war took place at Tantura.⁵⁹ Pappé added that Katz's paper was the first thesis submitted in a graduate-school framework in Israel that challenged the Zionist narrative of the 1948 war.⁶⁰ Pappé concluded that the testimonies of the victims in recreating the 1948 war are extremely important; the reconstruction of the war must not take place outside the academy (in Israeli courts for example); and most academics in Israel prefer to conform to the Zionist narrative and not to come into conflict with the consensus. Therefore, Pappé believes that the chances are slim for open research of the kind as reflected by that of the new historians in Israel's academic community.⁶¹

⁵⁹ Ilan Pappé, "The Katz and the Tantura Affairs: History, Historiography, the Court and the Israeli Academia," 20 *Theory and Criticism* 191, 197 (2002) [in Hebrew]. See also Ilan Pappé, "The Tantura Case in Israel: The Katz Research and Trial," *Journal of Palestine Studies*, Vol. XXX/3- Number 119 (2001) 19.

⁶⁰ *Ibid.*, Pappé (2002), p. 210.

⁶¹ *Ibid.*, pp. 214-215.

The role of the press

In the second week of October 2002, two small girls disappeared on the same day. One of them was Jewish—Hodaya Kedem—and the other was Arab—Nur Abu Tir. Until their bodies were found about a week later, the written and electronic press gave intensive coverage to the disappearance of the Jewish girl, far more than that given to the Arab child. This case is a good example of the role of the press in Israel. Following these incidents, the journalist Michal Kafra wrote:

Little Arab girls who disappear on Saturday [the day that the girls disappeared], do not know how to raise the emotion, anxiety, concern that are raised so instinctively by one Jewish girl.⁶²

The importance of the role played by the Hebrew-language Israeli media in the demonization and delegitimization of the Palestinian minority in Israel, and of Arabs in general, cannot be overestimated. Studies conducted on the role of the Israeli media in covering the mass protests of October 2000 and al-Aqsa intifada found that the media has functioned as a Jewish media or as the representative of the Jewish majority, and not as an instrument representing all the state's citizens. According to these studies, the media has related to the Palestinian minority as a bitter foe. The media played a part in inflaming passions, in increasing the sense of fear and "danger to the existence" of the State of Israel, and even in creating this fear. The media did not act to restrain the government, but served it and adopted its basic assumptions without questioning them.⁶³ Many people pointed out that the Hebrew media is not independent in its exercise of judgment and criticism regarding events in which

⁶² Michal Kafra, "Axis of Evil," *Ma'ariv* (Weekend Supplement), 13 December 2002.

⁶³ Analysis of cases of other conflicts indicates the danger inherent in media behavior of this kind: "In Yugoslavia and Rwanda, the central government continued a course of incitement and delegitimization of the adversary. The flawed functioning of the media and the lack of equality in enforcement shook the societies in the two countries and brought catastrophe on them. It is clearly possible to discern a direct connection between incitement and the harsh violence, the genocidal crimes, and the other crimes against humanity that followed in its wake. In other words, "between words and deed, the messages that the public officials and media people transmitted in the two areas were very similar in their nature. They were drenched in verbal violence, in enflaming hatred and delegitimization of the other side." Yizhar Be'er and Karen Gittis, *Incitement is Hazardous to Life: Words can Kill, The Example of Rwanda and Yugoslavia* (Keshev—The Center for the Protection of Democracy in Israel, 2001), p. 15 [in Hebrew]. See also Yizhar Be'er (ed.), *Civil or Ethnic Media?* (Keshev—The Center for the Protection of Democracy in Israel, undated) [in Hebrew]. The two reports appear on Keshev's website: www.keshev.org.il. See also, Daniel Dor, *Newspapers under the Influence* (Tel Aviv: Babel Publishing, 2001) [in Hebrew]; and Salman Natoor (ed.) *The Israeli Media and the Intifada* (I'lam Center, December 2000). For an analysis of the role of the Hebrew media before the current intifada, see Issam Abu Ria, Eli Avraham, and Gadi Wolfsfeld, *The Arab Population in the Hebrew Press, Media and Sociopolitical Delegitimization* (The Arab Culture in Israel Research Center, Givat Haviva, 1998) [in Hebrew].

the police, the army, or the GSS are the source of the information.⁶⁴ Others mentioned that very few senior reporters for the major media are Palestinian. Almost all the journalists, editors, and administrators, as well as the target community are Jewish.⁶⁵ Consequently, Arab citizens of Israel are excluded from the media debate, and the Hebrew-language Israeli media provides fertile ground for preconceived notions and one-dimensional images of the Arab population.

The journalist *Dan Margalit* writes a column for *Ma'ariv* and formerly had a column in *Ha'aretz*. He has been a long-time moderator on a popular television program broadcast on Israel's Channel One, the state television station, that deals with politics and current events. In August 2002, Margalit wrote a column titled, "They are There, We are Here," an excerpt of which follows.⁶⁶

It seems to me that we have to get ready for the day of closure of Jewish-Arab relations in Israel; to try and reach understanding and agreement, such that they will stay where they are, but will live on the other side of the border. Prof. Shlomo Avineri made the suggestion, which has been discussed at various academic conferences over the past two years: Israeli Arabs will retain all their social rights in Umm al-Fahem, Taybeh, and surrounding communities as part of Palestine. Under their grapevines and fig trees, and not under our flag. Why should they have the anthem Hatikva [Israel's anthem] and the poems of Haim Nahman Bialik [Israel's national poet]? I once thought this was horrible. Now, in light of all the blood and fire, smoke and terror, I wonder that maybe this is the right action to take.

Margalit had written earlier about the conferences he mentioned above. In a column under the title, "Another Attempt to Neutralize the Ticking Bomb of Israeli Arabs," he wrote.⁶⁷

In private, whispered conversations at the Herzliya Conference, intellectuals compared Israeli Arabs with the German minority in the Sudetenland in Czechoslovakia in 1938. Then the leader of the Sedetans, Konrad Henlein,

⁶⁴ The 2002 annual report of the international organization Reporters Without Borders (RWB) ranked Israel 92nd in the world, among 139 countries, in ensuring press freedoms. The criteria used by RWB are based on various parameters of freedom of the press, among them the number of cases of murder or arrest of journalists, the incidents of censorship, the use of pressure and orders prohibiting publication, government control of the media, the abuse of the legal system in cases involving journalists, the laws restricting the freedom of the press, and the regulation of the flow of information to the public. RWB declared the Israel army chief of staff, Shaul Mofaz, who later became minister of defense, "a predator of the freedom of expression." The RWB report is available at www.rsf.org/point/php3=id_article?1486. See also *Ma'ariv*, 24 October 2002.

⁶⁵ On this subject, see Avner Molcho, "Outside the Editorial Board," *Ha'Ayin Hashvi'it* (The Seventh Eye), vol. 33, p. 30 (July 2001).

⁶⁶ *Ma'ariv* (Weekend Supplement), 30 August 2002.

⁶⁷ *Ma'ariv* (Weekend Supplement), 18 January 2002.

received a directive from Joachim Ribbentrop in Berlin to never reach agreement with the Prague government. Always demand more so as to frustrate the reaching of agreement. Nobody dares make the comparison in public other than the editor of *Nativ* Ariyeh Stav, who holds clearly right-wing views, in his article "Czechoslovakia 1938—Israel Today," which was published by the Ariel Political Research Center...

In the liberal academy, there has been increasing call for examining, prior to a permanent agreement based on the establishment of a Palestinian state in the West Bank, the possibility of transferring Umm al-Fahem and its surrounding communities to its jurisdiction, without moving, of course, one Arab from his home.

In another article, which appeared in August 2002, Margalit compares civil demonstrations and protests of Palestinian citizens in Israel to the crimes of murder of women or rape. In the two cases, he contends, the police are rendered helpless, and both cases involve criminals. He then adds the following comments:⁶⁸

In communities adjacent to areas in which the events of October 2000 took place, citizens stayed in their homes fear-stricken. There were signs of panic when violent demonstrators approached the fences. The police were attacked with stones, and some contend that shots were also fired at them. This does not allow it [the police] to go wild against Arab demonstrators, as some of the pictures showed, and it must combat the phenomenon and uproot it. But in a modern state, it is forbidden to allow a wild mass of people to throw stones at the police whether or not the threat to their lives is substantial or minimal. No way. The various kinds of criminals must realize that they have something to fear when they violate the law. "Were it not for the fear of the state –neighbors would devour each other." The talk in the name of human rights and civil rights is not reserved only for criminals and suspects. The silent majority of law-abiding citizens also have rights. We are entitled to "law and order" of all kinds. Enough.⁶⁹

⁶⁸ Dan Margalit, "The Real Task of the Israel Police Force," *Ma'ariv* (Today), 20 August 2002.

⁶⁹ Ariyeh Amit, former police commander for the Jerusalem district, expressed a similar opinion: by not having the police enter Arab communities during the gatherings commemorating the anniversary of the mass protests of October 2000, the state showed that it does not exercise its sovereignty. In his words, "a properly administered state does not exercise sovereignty only when it is comfortable to do so." That is, Amit wants the police to enter Arab communities when the Arabs are conducting processions, though police action will clearly lead to a clash between the police and the demonstrators. See Ariyeh Amit, "Conditional Sovereignty," *Ynet*, 2 October 2002. Unlike Margalit and Amit, MK Roman Bronfman, chairman of the Russian-immigrant party The Democratic Choice, wrote that, "Israel distinguishes between Jewish violence and other violence, which the state must explain." Bronfman compares two cases of Jewish violence, violent disturbances on the soccer field and evacuation of settlers from the settlement Gilad Farm, and the treatment of this violence by the police in comparison with its handling of the>>

In another column, which appeared in September 2002, Margalit concluded, as had Ehud Barak, that lying is a custom among Arabs:⁷⁰

Enlightened thought will employ in the international arena rules of the game a major element of which is the duty to honor commitments resulting from the negotiations. The West agreed that the lie—that the basis for breaching commitments—is perceived as an unacceptable, forbidden norm. Not that lying no longer exists in the West. It is spread around like a plague. But the West believes that a serial liar who is caught and exposed will be punished for his acts. The same is not true in Arab countries. These countries were not in the international arena and did not internalize the values that democracy carried with it on its wings of victory... The lie is the message of leaders like Saddam Hussein and Yasser Arafat... The actions of Saddam and Arafat are not, Heaven forbid, derived from birth, are not genetic. They are the product of cultural custom...

The column does not relate to Arab citizens of Israel, but it relates to “a cultural flaw” that afflicts Arabs as a group.

An article published in January in *Novosty*, one of the two most widely circulated Russian-language newspapers in Israel, called for the castration of Arab citizens incarcerated in Israel and for a monetary award to be paid to young Arabs who are willing to be castrated. In the article, *Marian Balenki*, one of *Novosty*’s leading writers, supported the “castration of Arab prisoners and persons arrested for anti-Israel activity.” The writer argued that, “taking into account the unique Arab mentality, castration of captured Arabs can serve as a strong psychological means in use by Jewish resistance groups in order to spread panic among the Arab population, and to encourage Arab emigration from the country.” To reduce the birthrate among Arabs in Israel, the author proposed implementation of the “Chinese experiment,” i.e., punishing parents who have more than one child. The punishment is reduction of their benefits, dismissal from their jobs, transfer of their children to boarding schools, and exile of the parents to distant locations. Together with the punishment, the writer also proposed measures to encourage families to have fewer children, such as the distribution of birth control devices to Arabs for free, or at reduced

<<demonstrations of October 2000. In his opinion, “protection of the lives of its citizens is a function of the state, without distinguishing between citizens. Citizens of a democratic state have a right to protest; the duty of the state is, on the one hand, to enable the freedom of expression, and, on the other hand, to maintain proper order. Maintaining proper order does not require the use of gunfire, not against one kind of citizens or another. The defense establishment proved that, in the case of disturbances that include the throwing of stones, it is possible to act in another manner, and, in any event, the danger does not justify the killing of citizens.” Roman Bronfman, “Targeted Citizens,” *Ha’aretz*, 27 October 2002.

⁷⁰ Dan Margalit, “Rain of Lies,” *Ma’ariv* (Today), 24 September 2002.

prices, and the establishment of a system for adopting Arab children with the objective of transferring them to Arab countries. The newspaper said that the editors had exercised poor judgment in publishing the article.⁷¹

The other side of the conception of the inferiority of the “other” is the superior feeling of “the I.” There is no better example of this than the comments of *Judy Nir-Mozes-Shalom*, television and radio broadcaster, and wife of Silvan Shalom, the finance minister in Sharon’s first government, who now serves as foreign minister. In a radio program aired in January 2002 on *Kol Israel*’s Channel Two, Nir-Mozes-Shalom made the following comments: “I am in favor of higher education. I believe it is the spearpoint of the Jewish brain, of the Jewish people... We have to preserve the superiority of the Jewish race, as they say, from the aspect of its brain.”⁷² Following the criticism leveled against her, Nir-Mozes-Shalom apologized for her comments.⁷³

⁷¹ “Article in *Novosty* Calls for Castration of Arab Israelis,” *Ha’aretz*, 18 January 2002.

⁷² “We have to Preserve the Superiority of the Jewish Race, as They Say,” *Walla*, 29 January 2002.

⁷³ “Judy Nir-Mozes-Shalom Apologizes,” *Walla*, 1 February 2002.

The Honorable Judge

The retired judge *Uri Strusman* served as chairman of the elections committee of the Likud party until November 2002. In an interview with *Yediot Aharonot*, he spoke about transfer, and about the rights of the Arab citizens in Israel and their involvement in making decisions regarding the future of the state. Excerpts from the interview follow.⁷⁴

Strusman: I may be ready for the Jewish majority to decide on withdrawing from the territories, which I believe would be a mistake, but it is certainly unacceptable that the matter be determined by Arab citizens or Arab members of the Knesset. Let's call it affirmative action... for Jews.

Interviewer: Essentially, you are talking about discrimination, about breaching the fundamental principle of equality.

Strusman: I absolutely recognize the principle of equality... but we are in a situation that no country has ever faced: a state with a national minority whose family members—brother, cousin, brother-in-law—are fighting against it. Therefore, in questions relating to the existence of the state, the Arabs simply do not have the right in the decision making. Their judgment—at best—is flawed by a conflict of interest. Ahmad cannot decide about my defense budget when Yusuf is fighting against my son in Ramallah. That would be inconceivable, pure foolishness.

Interviewer: Wait a second, now it is not just a matter of returning land, but about the state budget that Arab members of Knesset should not be allowed to vote on?

Strusman: They cannot be involved with statutes that relate to the defense budget. I certainly believe that an Arab can serve as mayor of a local authority.

Interviewer: And a Supreme Court justice?

Strusman: Provided that he does not handle security files. He should not be given classified Shabak [GSS] material. Even in order to keep the pressure off him. We don't have to be naive.

⁷⁴ Eyal Gonen, "Straight Out," *Yediot Aharonot* (Seven Days Supplement), 22 November 2002. Strusman made similar comments previously. See *Yediot Aharonot*, 28 December 1995, and Uri Strusman, "Real and Apparent Equality before the Law," *Haooma* (The Nation), vol. 125, pp. 20-27 (1996) [in Hebrew]. In that article, he explains his comments and answers his critics: "It was a mistake to demand, for the sake of the principle of equality, identical treatment and identical punishment for the two offenders, members of different nationalities [Jewish and Arab], who violate the state's laws and commands. Punishment that deters the one individual and his community, does not deter the other individual and his group (at p. 22)... This war [with the Arabs] made me think that it is not morally or socially right to rely on the votes of the Arab members of the Knesset on questions relating to the existence of the State of Israel. In my opinion, they are citizens with equal rights who are entitled to take part in its actions and decide by their votes in the Knesset on the enactment of the state's statutes, except—as mentioned—on existential matters relating to the connection between them and Arabs outside of Israel. These matters are especially applicable now, when it is still not clear or certain that they recognize Israel and seek its well-being" (at p. 27).

Interviewer: Arab Israelis are likely to agree with your statement, and the strong establish the court that they want.

Strusman: The law of the world from the days of Cain and Abel, that the strong win and the strong make the laws. It is forbidden that we be the weak party. In the framework in which we are the strong and make the rules, we must be humane. But even Justice [Aharon] Barak said that a constitution is not a recipe for suicide. Arab Israelis should vote for the Jordanian parliament.

Interviewer: How do you think it would be possible to explain to the West about the revocation of citizens' fundamental rights?

Strusman: We are deceiving ourselves and the world: rather than flat out saying the truth, we respond with noble thoughts. The truth is that there is not going to be peace with the Arabs, neither in our generation nor the next, and the truth is that the Arabs among us may not be against the state, but they are suspect of being against the state. Fear is the only reason that they are loyal. Look, that terrorist's son may some day be a member of the Knesset. He is torn up inside, that member of the Knesset. My heart cries out for them, but they created the situation.

Interviewer: Is transfer a vulgar word to you?

Strusman: World history teaches that transfer is part of a possible solution to international problems. I am not sure that it is obsolete. I am not saying that we should do a transfer, but it also has not disappeared from the world.

Interviewer: It is not completely forbidden?

Strusman: It is forbidden when it is done by compulsion, but the world will do such things.

To understand how such opinions seep into judicial decision making itself, and how it is impossible to distinguish between these views of a judge on the bench and the decisions in the files presented to the individual judge, it is necessary to go back a few years.⁷⁵ In *Ishgoyev*, the Tel Aviv District Court convicted a settler in 1988 for causing the death of a 13-year-old Palestinian youth in Nablus. Judge Strusman accepted the defendant's contention that he fired into the air and not at the youth, and sentenced him to six months of community service. In reply to his critics, the judge contended that it was a mistake to demand, for the sake of equality, equal punishment for two defendants of different nationalities.⁷⁶ Upon appeal to the Supreme Court, the sentence was increased to three years' imprisonment, less the period that the defendant served in community service and two years probation.⁷⁷

⁷⁵ When Strusman's above comments were published, he was no longer on the bench.

⁷⁶ See Chaim Ganz, "How Much for Manslaughter," 13(1) *Iyunei Mishpat* (Tel Aviv University Law Review) 5 (1988) [in Hebrew]; and S.Z. Feller, "Crim. File (Tel Aviv) 461/83: Purely Legal Quandaries about a Confounding Decision," 13(1) *Iyunei Mishpat* 231 (1988) [in Hebrew].

⁷⁷ Crim. App. 175/88, *State of Israel v. Nissan Ben Yirmiyahu Ishgoyev*, Supr. Ct. Rpt. 42 (2) 361.

Rabbis

On numerous occasions, influential and important rabbis have expressed their hatred toward Arabs and their support for extreme, racist ideas. Some have even encouraged violence against Arabs. The chief rabbi of Safed, Rabbi *Shmuel Eliahu*, supports transfer and uses verses from the Torah to support his position. Rabbi Eliahu is one of the rabbis who regularly responds to questions posed to the website *Kipa*.⁷⁸ One of the Internet surfers wrote: "Isn't transfer an idea more appropriate to Nazi Germany than to Israel? There is no such thing as 'voluntary transfer'." In his response, Rabbi Eliahu wrote:

Are you asking or making a statement? Do you have a better solution? That Jews here—men, women, and children—will be blown up on a daily basis? Maybe we should give them the Temple Mount? The right of return and our neck to slaughter us? Why don't you find the transfer of Jews from the places where they live [the settlers] comparable to "Nazi Germany?" Maybe it would be easier for you to identify with the suffering of the Arab people than with your people?

In other responses on the website, Eliahu stated his position on the morality of transfer:

All "lovers of justice" who are ready without pangs of conscience to tear hundreds of thousands of Jews from their land, from the Golan Heights and from YESHA [Judea, Samaria, and Gaza], and put them on trucks, are those who threaten to disobey the order if it is done to Arabs. This "justice" is not ours. This is a perversion of justice. All of those people have to explain to me and to you, and to themselves, why it is moral to do this to Jews and immoral to do it to Arabs... We have learned the hard way that "unilateral separation" will not free us from the evil of the murderers. It is better that we recognize as soon as possible whom we are facing and what the solution is.⁷⁹

In another response, he attacks those who argue that transfer not only contradicts Jewish morality but Jewish law as well:

The gentiles are forbidden to be in this land if they do not reconcile themselves with us in everything, and even if they do, they still are forbidden to be here. Only a *ger toshav* [partial proselyte] is allowed to be here according to Halacha [Jewish law], and if you believe in the Almighty and in His way, don't look for another way, because it does not exist. I do not know what transfer is. I know that it is not more compassionate than the Almighty. I also know that the Torah is unchanging. If it holds something—it is the more correct and more

⁷⁸ Anshel Feffer, "The Torah Sought Transfer, but is it Still in Effect?," *Ha'aretz*, 25 March 2002.

⁷⁹ *Ibid.*

compassionate way. If someone says that this idea is not supported by Halacha, he did not read... Please show me anyone in the world who disputes this idea and brings one halachic reference in support of his position.⁸⁰

Rabbi Eliahu explained to *Ha'aretz* that the reason transfer was not raised for meaningful debate among the religious community until recently was because, "we ignored the path of the Almighty and thought that we were smarter. But everything is written in the Torah." In his opinion, the religious community is also affected with western morality: "We were in exile for 1930 years, and a great number of moral perversions of an accursed culture seeped into us." Now the situation has changed. "I was at an assembly with thousands of young people, and I spoke on this. The crowd responded positively."

On 8 August 2002, Rabbi Eliahu called on the administration of Safed College to stop accepting Arab students. In his letter to the head of the college, attorney Hebron Trabelsi, Eliahu explained that he made his request following the press report that Yassira Bakri, an Arab student at the college, did not warn about a suicide-bombing attack on a bus at the Meron junction, although she had been warned by the perpetrator. The rabbi claimed that the incident was representative of the Arabs' attitude in these matters. In his words:

The Arab students are an alien element in Safed and endanger the residents not only in security terms, but also in moral matters... Let them study in their villages and leave us be. It is impossible to study with students who support and protect terror. It is impossible to nurture the education of students who nurture terror.

Trabelsi requested the prime minister to require every student to pledge allegiance to the state as a condition for acceptance to academic institutions in Israel.⁸¹ The Safed College administration subsequently decided to expel two students from the college.⁸² On 16 August 2002, Rabbi Eliahu made comments similar to those mentioned above in an interview with *Kol Ha'ir*, a Jerusalem weekly, adding that it was necessary to transfer Arabs from Israel and from the Occupied Territories. He said that MK Azmi Bishara is "among the first who have to go." Attorney General Elyakim Rubinstein decided to open a criminal investigation against Rabbi Eliahu on suspicion of "incitement to racism." MKs Zvi Hendel and Uri Ariel (National Union) said that they support Rabbi Eliahu and identify with his comments.⁸³

⁸⁰ *Ibid.*

⁸¹ *Ha'aretz*, 9 August 2002; "Rabbi of Safed: Expel Arab Students from City's College," *Ynet*, 8 August 2002.

⁸² *Yediot Aharonot*, 15 October 2002.

⁸³ *Yediot Aharonot*, 6 October 2002; *Fasl al-Maqal*, 4 October 2002.

Rabbi *Mordechai Eliahu*, former Sephardic chief rabbi of Israel and father of Rabbi Shmuel Eliahu, issued a halachic ruling during his weekly class, given on 30 July 2001, in which he held that, “it is forbidden to sell or rent an apartment to a gentile. If the gentile pays money and more money—‘their hands are drenched in blood.’ Who knows from where he stole the money? This money is not a blessing.” Adalah: The Legal Center for Arab Minority Rights in Israel filed a complaint with the attorney general against Rabbi Eliahu.⁸⁴ To understand Rabbi Mordechai Eliahu’s importance and influence, it should be noted that *Ma’ariv* selected him as one of the most significant figures for the Jewish year 5762 [2001-2002]. The journalist Shlomo Tzezna wrote:⁸⁵

He is less declarative, is less conspicuous in the media, but is the meteor of the past year. On the one hand, he established his firm base in the position of rabbi who is the head of religious Zionism (the entry of Effie Eitam as head of the National Religious Party, a person who bows to the rabbi’s authority on everything, further contributed to his position). In a year of non-stop terrorist attacks, he stood at the head of the rabbis who proclaimed: we told you the right way. At the same time, with the public weakening of the eldest of the kabbalists, Rabbi Yitzhak Kadouri, Rabbi Eliahu becomes the (hidden) kabbalist with the greatest Majian power (voters) in Israel. He gives charms and blessings at a rate that no rabbi in Israel can compete with... Rabbi Eliahu has thousands of followers who act upon his instructions, and do exactly as he says.⁸⁶

In August 2001, in an interview with *Holon—Bat Yam*, a local paper published by *Yediot Aharonot*, Rabbi *Yosef Bar-Shalom*, the chief Sephardic rabbi of Bat Yam, attacked immigrants from the former Soviet Union. “We suffer enough from the Arabs—we don’t need the immigrants.” He also said that the immigrants living in Bat Yam “are not Jews and cause spiritual harm.”⁸⁷

Rabbi *Ovadia Yosef*, the spiritual leader of Shas and one of Israel’s senior leading rabbis, has often spoken out in slanderous terms against Arabs. Rabbi Yosef emigrated to Historic Palestine from Iraq in 1926. In 1947, he went to Egypt and served as chief rabbi of Cairo and as president of the rabbinical court. From 1968 to 1983, he served as chief Sephardic rabbi of Israel. In 1984,

⁸⁴ “Adalah: Open Investigation against Rabbi Mordechai Eliahu,” *Walla*, 15 August 2001.

⁸⁵ “Figures of the Year 5762,” *Ma’ariv* (Jewish New Year Supplement), 6 September 2002.

⁸⁶ See the interview with Rabbi Eliahu: Shlomo Tzezna, “Rabbi Mordechai Eliahu: ‘Barak should Simply Disappear from Rule,’” *Ma’ariv* (Weekend Supplement), 5 January 2001. On 23 October 2002, during a visit to the settlement Gilad Farm, Rabbi Eliahu said that the Jews are allowed to pick olives from Palestinian groves in the Occupied Territories. The rabbi explained that because the land is the inheritance of the Jewish people, the plantings made by the gentiles on this land were made on land that did not belong to them. “Whoever plants a tree on my land, the tree and its fruit are mine.” These comments encouraged settler violence against Palestinians during the olive-picking season. See *Ha’aretz*, 25 October 2002.

⁸⁷ “Sephardic Rabbi of Bat Yam: We Suffer Enough from the Arabs—Russian Immigrants We Don’t Need,” *Walla*, 14 August 2001.

he founded Shas. In the 1999 elections to the Fifteenth Knesset, Shas received 17 mandates and became the third largest political party group in the Knesset. In a sermon that he gave at the end of Passover in April 2001, Rabbi Yosef said the following: “Arabs come from the seed of Amalek” and they should be “bombed [given tilim ala kif kifaq] and annihilated.” When the Arab world responded harshly to these words, Rabbi Yosef published a “clarification,” in which he did not call to attack Arabs as Arabs, but to attack terrorists and murderers.⁸⁸

Rabbi *Yitzhak Ginzburg* heads the Joseph’s Tomb yeshiva in Nablus and is considered the spiritual leader of the extreme Right. In May 2001, Rabbi Ginzburg’s, *Needed Urgently—Radical Treatment*, a collection of his writings and thoughts, was published by the Association for the Spread of Torah Boarding Schools in Israel and in the Diaspora. Israel’s Ministry of Religious Affairs and Ministry of Education fund the association. This publishing company was founded especially for the Torah and Kabbala lessons given by Rabbi Ginzburg. In the book, the rabbi recommends an economic boycott of the Arabs and encourages transfer.⁸⁹

Do not employ them and do not trade with them at all... Instead of saying that we have to remove the Arabs, let us take the work for ourselves, thus leaving them with no means of livelihood.

Similar comments can be found in the brochure “Dear Jew!,” in which the

⁸⁸ “Rabbi Yosef Apologized: ‘I Did not Intend to Call for the Annihilation of Arabs,’” *Walla*, 13 April 2002. His previous statements indicate that he holds racist beliefs about Arabs. For example, in March 1993, Rabbi Yosef said: “No animal is more evil than Arabs. They are like animals. It was said about the Arab, ‘He will be a wild savage. His hand shall be against every man, and every man shall be against him.’” Rabbi Yosef added that, “All Arabs hate Israel. All peoples of the world hate Israel.” In August 2000, Rabbi Yosef said, “The Ishmaelites are all accursed evildoers. All of them hate Israel,” and that, “The Almighty regrets that he created these Ishmaelites. The Almighty, it says in the Talmud, says everyday—would it were that I did not create them.” Regarding the prime minister at the time, Ehud Barak, Yosef said that he was not intelligent, because “he brings snakes to us. What kind of peace do you make with a snake?” See Shahar Ilan, “The Rabbi in Favor of Peace. He Does not Love Arabs,” *Ha’aretz*, 9 August 2002.

⁸⁹ Quoted from Giddy Weitz, “We Read it and Enjoyed it,” *Yediot Aharonot* (Seven Days Supplement), 18 October 2002. The article describes the excited responses the publisher received from senior government ministers who had been sent copies of the book. The office of Foreign Minister Shimon Peres responded that, “We appreciate and respect the substance, contents, and messages of this book and thank you for sending it.” Binyamin Netanyahu, former prime minister, wrote that, “I join your hope that the things mentioned in the book will breathe new life in the heart of Israel and bear fruit for your efforts.” Minister of Education Limor Livnat wrote that, although she had not yet studied the book, “she relied on Rabbi Ginzburg that his words, which came from the heart, will enter into the hearts [of the readers].” The director of Minister Dan Naveh’s office wrote that, “the minister perused the book and found it to be of much interest.” The office of the Speaker of the Knesset, MK Avraham Burg, said that the book had been placed in the Knesset’s library. Following the article, the above mentioned officials shunned the book and its messages and claimed that the responses were made in accordance with the practice employed by the heads of their offices.

rabbi urges the reader "to act to expel the Arabs from the Land of Israel. Sever relations with the Arabs. Do not buy from Arabs. Do not employ Arabs."⁹⁰

Rabbi Ginzburg first became famous when he published the book *Baruch the Man*, in which he praised Baruch Goldstein, who committed the massacre in al-Haram al-Ibrahimi in al-Khalil in February 1994. In the book, the rabbi stated that, "Goldstein's act was a commandment. The very deaths of the Arabs was positive." Despite these comments, the prosecutor's office decided not to indict him. Even before the book was published, the rabbi was notable for making statements encouraging violence against Arabs. For example, after the yeshiva student Rafi Solomon was suspected in the late 1980s of attempting to kill two Arab laborers from Gaza, the rabbi said, "Something can certainly be learned from Rafi's act. The shooting of the Arab workers that occurred at the Geha junction was done out of love for Israel... and the act is deserving of national citation." Rabbi Ginzburg always dignified his statements with halachic rulings. He issued, *inter alia*, a ruling that distinguished between Jewish blood and gentile blood. Following the suicide actions in March 1996, Ginzburg encouraged his students to attack Arabs. He explained that, halachically, it is a duty to take revenge against Arabs. The rabbi was placed in administrative detention at the directive of then-Prime Minister and Minister of Defense Shimon Peres, but was released 19 days later following a petition to the Supreme Court and the assistance of MK Rehavam Ze'evi (Moledet).⁹¹

In an interview that Rabbi Ginzburg gave in January 2001, he repeated his praise for the murderer Baruch Goldstein and for Rabbi Meir Kahane, founder of Kach. During the course of the interview, Rabbi Ginzburg also made the following comments:⁹²

Shots fired in error by soldiers at Arabs is a correct act... Common sense indicates that it is necessary [if the shooters at the moving vehicles flee] to immediately attack the nearest Arab village. Turn the whole village into rubble. Then we have to do something good and immediately build a Jewish village next to the demolished Arab village. The Arabs who hate us do not have the right to live in our country. They endanger our lives. They aspire to take land from us that does not belong to them, so they are robbers. There is the concept of the third world, which is the most primitive, and that refers to the Arab people, which lies at the bottom of the ladder. The murderous behavior and anti-Semitism of the Arab people result in terrorist attacks, and its animalistic nature spurs it on to kill and annihilate us. According to the Kabbala, the Jewish people are the most

⁹⁰ Quoted by Moshe Gorali, "Will Rabbi Ginzburg again Avoid Prosecution?," *Ha'aretz*, 25 December 2001.

⁹¹ App. Adm. Det. 4/96, *Rabbi Yitzhak Ginzburg v. Minister of Defense and Prime Minister*, Supr. Ct. Rpt. 50 (3) 3221. The decision was delivered on 28 March 1996.

⁹² Sari Makover, "In War, Integrity goes Unchecked," *Ma'ariv* (Weekend Supplement), 12 January 2001.

advanced human creations in terms of intelligence and spirit, but Ishmael is a people of slaves, and the nature of a slave is to be licentious and unrestrained.

Similar statements fill Rabbi Ginzburg's website, which the association that published his book set up for him: www.pnimi.org.il.

Recently, following a petition filed by two attorneys to the Supreme Court demanding that the authorities investigate the actions of Rabbi Ginzburg and indict him for offenses he committed, the Attorney General decided to direct an investigation of Rabbi Ginzburg on suspicion of incitement to racism.⁹³

⁹³ *Ma'ariv*, 21 June 2002. Regarding an earlier investigation file that was closed, see *Ha'aretz*, 28 June 2001, 12 July 2001, and 16 August 2001. For more details on Ginzburg and the legal proceedings initiated against him, see Y. Be'er and K. Gittis, *supra* footnote 63, pp. 21-26; and *A State Captured by Extremists: Extremist Groups that are a Danger to Democracy in Israel* (Keshev—The Center for the Protection of Democracy in Israel, October 2000) [in Hebrew].

Jewish labor

One of the major myths of the Zionist movement, prevalent before and after the founding of the state, is that of "Jewish labor." This section presents five recent illustrations of this myth and how it translates, officially and unofficially, into socioeconomic reality.

In late June 2002, a group of 15 rabbis well-known in the settlements, published a notice in the religious newsletter, *Lehavim*, calling on the Jewish public to refuse to work with Arabs. It stated: "Employment of Arab workers at this time entails life-threatening risk while Jewish blood is being shed like water by our enemy and by these workers." The signers of the notice called on the public not to hire Arab workers, not to do business with Arabs, to prefer trade with individuals and companies that do not employ Arabs, and to refrain from selling Arab products. The then-deputy foreign minister and head of the political party Meimad, Rabbi Michael Melchior, filed a complaint with the Attorney General against these rabbis, whom he classified as "some of the leading rabbis in Israel." Among the rabbis who signed the notice were Rabbi Haim Druckman, Rabbi Zalman Melamed, Rabbi Dov Lior, and Rabbi Mordechai Negri.⁹⁴

Dozens of businessmen signed a list on the website "Jewish labor" indicating that they do not employ Arabs. The website, which went on the Internet in June 2002, is dedicated to locating businesses that hire only Jews and to placing unemployed Jews in jobs at these businesses. The businesses listed, as of 8 October 2002, are divided into the following categories: reception halls (3), plumbing (6), packing (1), construction (22), hotels and guest houses (3), gardening and vegetation (3), transport and crane services (7), flower and landscaping products (1), farming (6), electronics and electrical (2), textiles (1), bakeries and confectioneries (4), taxis and transportation (28), auto repair shops (5), security products (1), kitchens (1), restaurants (9), carpentry and wood dealers (9), excavation and infrastructure work (2), catering and take-out foods (5), carpets (1), renovations (24), and gas stations (3).

The website is operated by Adi Ginzburg, a private businessman from Givat Shmuel, who is assisted, he contends, by a skilled and orderly staff. Ginzburg and other donors fund the website's operations. Two major news websites that identify with the far Right, "YESHA News" and "Qatif.net," sponsor the site and provide space for the website's forum. In the forum, businessmen can offer work to unemployed Jews provided that the business employs only Jews. *Ha'aretz* reported that the website's staff did not forbid the businessmen from

⁹⁴ "Rabbis known in the Settlements..." *Walla*, 2 July 2002; "Prosecutor's Office to Investigate Rabbis' Call not to Hire Arabs," *Walla*, 10 July 2002; "Rabbis Urge not to Hire Arabs and not to do Business with Them," *Ha'aretz*, 3 July 2002.

posting signs at the entrance to their workplaces indicating that they do not employ Arabs.⁹⁵

The website mentions that, “our objective is to encourage the employment of Jews and to strengthen those who employ only Jews,” and that “this site was established for that purpose.” It quotes several biblical verses to justify the concept of “Jewish labor,” “by which all of us will cease doing business with the enemy and will strengthen our brothers. As a first step, we are publishing a list of taxi stations that do not employ enemy Arabs, and, contrarily, those that employ Arabs. Let the public know which is which and be careful not to provide a living for those who shed our blood.”⁹⁶

Peace Now and Mossawa complained to the Attorney General and demanded that he prosecute the Website operators and the firms that advertise on the site.⁹⁷ The Attorney General responded that he had opened an investigation into the matter.⁹⁸

The columnist B. Michael wrote in September 2002:⁹⁹

Again this shameless “Nurembergism.” As if statutes have never been enacted to allow only the hiring of members of the master-people, and as if scornful calls have never been made to members of the chosen race not to buy from people of the inferior race. And all in the name of a few detached verses that adorn this abhorrent website, a license from above to resuscitate the worst of the anti-Semitic scornful abuse. In a mocking attempt to avoid criminal prosecution, the website states that non-Jews “who obey the seven Noahide commandments” are also fit for employment. Unfortunately, it is not easy to find Jews in Israel who obey these seven commandments. And the little racist at the website did not explain what their sentence would be.

Attorney Ali Haider, head of the affirmative action and fair representation program at Sikkuy, wrote:¹⁰⁰

The group organizing by Jewish employers is not the spontaneous action of the isolated few, but a calculated and planned process fed by the public attitude of incitement against Arab citizens. If this situation is not quickly rectified, this dangerous phenomenon will necessarily lead to an apartheid state like the former South Africa, and will reconstruct the paradigm of the relations between the Blacks and Whites in the United States in the 1960s.

⁹⁵ “Internet Site Advertis Firms that Hire Jews Only,” *Ha’aretz*, 23 September 2002.

⁹⁶ See www.jews.org/avodaivrit.

⁹⁷ “Peace Now to the AG: Investigate Operators of ‘Jewish Labor’ Website,” *Ha’aretz*, 24 September 2002; and “Mossawa: We shall Boycott Businesses listed on ‘Jewish Labor’ Website,” *Ha’aretz*, 25 September 2002.

⁹⁸ “AG Orders Investigation of Operators of ‘Jewish Labor’ Website,” *Ha’aretz*, 25 October 2002.

⁹⁹ B. Michael, “Master Jew, Canaanite Slave,” *Yediot Aharonot* (Holiday Supplement), 27 September 2002.

¹⁰⁰ Ali Haider, “The Government Paves the Way,” *Ha’aretz*, 26 September 2002.

Before the existence of the “Jewish labor” website became known, the local weekly *Kol Hazman* published an article on a group called “Jewish labor.”¹⁰¹ The group was composed of settlers who had distributed posters throughout Jerusalem calling on the public to boycott taxi companies that employed Arabs. The anonymous poster contained a list of taxi companies that employed Arabs and their telephone numbers so that the public could file protests. As a public service, the drafters of the poster listed the companies that were “clean” of Arabs. The newspaper reported that the poster was a further instance of the abuse against Arab taxi drivers that has occurred since the outbreak of the intifada. Passengers do not want to ride with Arab drivers, and some of the drivers have been forced to leave their jobs. Several taxi companies proudly told the newspaper reporter that they “do not even pick up Arabs.” The boycott is popular in the ultra-Orthodox community, where most of the customers refuse to enter cabs driven by Arabs and also boycott taxi companies that employ Arabs. “The public does not want to travel with Arabs. They send women and children alone, so they want to be safe,” a taxi driver who works in the ultra-Orthodox community told the *Kol Hazman* reporter. “We do not accept Arabs. The Arabs should be buried, see what they have done to us.” The refusal to hire Arabs is also a matter of finances. “What is better for me,” a taxi company official added, “to work all the time, or have them boycott me?” The reporter counted 17 taxi companies in Jerusalem that did not employ Arabs.

In the same article, the newspaper reported that the head of the middle and high school education division of Jerusalem’s Department of Education, Yehudit Shalvi, issued a circular that same week to school principals in the city. The circular stated: “I wish to repeat and emphasize the directive regarding the prohibition on employing Arab residents of East Jerusalem and Judea and Samaria in construction work and in providing services in educational institutions... Please be sure that this directive is enforced.” Shalvi attached the old instructions of the minister of education regarding employment of Arabs in the schools. The newspaper also reported that one of the city’s schools, ORT Nevi’im, acted before Ms. Shalvi took action in this matter, and two Arab cleaning workers who had been assaulted in the school a month earlier were not allowed to return to work and were replaced.

In February 2001, Arabs working for the Awazi restaurant chain complained that they were not allowed to speak in Arabic while on duty. The reason given was that the chain’s owners worried that speaking in Arabic during work was liable to “harm the chain’s image.” Furthermore, the Arab workers, who comprise 80 percent of the chain’s workforce, were given Hebrew names. Following the mass protests of October 2000, on the night after Yom Kippur,

¹⁰¹ Haim Levinson, “Jewish Labor, Arab Unemployment,” *Kol HaZman*, 14 March 2002.

Jews from Tel Aviv's Hatikva neighborhood attacked Arab workers in the chain's restaurant on Itzel Street. The owners decided to remove the workers from the restaurant in the neighborhood and replace them with other workers. Some of the Arab workers were transferred to other restaurants in the chain and some were sent home.¹⁰²

On 15 November 2002, *Yediot Aharonot* published an extensive article on labor and unemployment in Israel. The article discussed, *inter alia*, discrimination against the Arab minority in Israel. An excerpt from the article follows:¹⁰³

As if ugly phenomena don't exist in the labor market, institutionalized racism also has an honored place. Unemployment primarily harms the Arab towns and villages. According to the Central Bureau of Statistics, the unemployment in those communities is almost twice as high as in Jewish communities. The result is a low standard of living and much rage. Racial discrimination is prohibited by the Equal Employment Opportunities Law... Nevertheless, it is precisely at the Employment Office of the State of Israel that an employer can request a "non-Arab" worker. His request will appear on the computer screens of all Employment Office staff together with the discriminatory directive. Those who make requests are not required to see an Arab candidate, even if he is perfectly suited to the job. On a daily basis, employers hand over descriptions of the positions they need to fill. Whoever wants to hire only a Jew must only mark in small letters "not from Taybeh" or "not from Nazareth." For example, Asher Naim, who owns a painting business in Netanya, went to the Employment Office to obtain workers who were "not from Taybeh." "Sometimes I paint at the Ministry of Defense," Naim contends, but he immediately adds that, "I do not accept Arabs because what happens with them. I do not want to employ Arabs. Let them get unemployment compensation or allotments. What do I care. Let them get as much as they want. I have one Arab working for me; he is actually normal. I don't want more"...

But why accuse a private painter from Netanya, when a government corporation acts in the same manner. Kombel Transportation, which works on a per job basis for the Israel Electric Company, is seeking a semi-trailer driver... They have looked unsuccessfully for a month, yet they still demand a driver "not from Taybeh." "We work with the Electric Company," a Kombel official, David Rothenburg, explains, "and they do not let Arabs enter. I really don't understand why not. But the result is that I cannot hire Arab drivers. One time, we sent an Arab driver onto Electric Company property, and they delayed the truck for hours, until I found a Jewish driver."

¹⁰² *Ha'aretz*, 13 February 2001.

¹⁰³ Shahrar Genosar, "State of Parasites," *Yediot Aharonot* (Seven Days Supplement), 15 November 2002.

Banking, insurance, and racial discrimination

Other economic consequences of racism are illustrated in the case involving Discount Mercantile Bank. In November 2002, it was announced that the bank's marketing division was examining the feasibility of collecting higher interest on loans given to Arab customers than from its Jewish customers. An internal memo distributed by the marketing and business promotion division of the bank indicates that the bank was interested in offering 36 month loans of NIS 10,000 to NIS 30,000. The document stated that Jewish customers would be charged interest at the prime rate + 2.5 percent, while Arab customers would be charged prime + 3.5 percent. After the matter was reported in the press, the bank stated that the plan was the initiative of a junior bank official and had been filed away. The bank subsequently issued a letter indicating that it does not distinguish between the different sectors of the population.¹⁰⁴

In September 2002, it was reported that insurance companies cut off more than 250 Arab insurance agents from the compulsory auto insurance computer system. The companies contended that the actions were taken because the agents had exceeded the number of claims that the companies had set. The companies contended there was a higher incidence of claims filed among the Arab population than in the Jewish sector. MK Ahmad Tibi (Ta'al) stated that the companies had taken a "drastic and completely illegal measure." Even if the insurance companies' contention was right, Tibi argued, there is in fact a compulsory insurance law and everyone must be given the opportunity to comply with it. Furthermore, Tibi added that in other sectors, such as among Russian immigrants, the claims rate is high, but they are spread out among many agents, so the companies cannot locate "problem agents." Arab insurance agents argued that the criterion of frequency of claim, and not the monetary payments resulting from the claims, is unfair.¹⁰⁵

¹⁰⁴ "Mercantile Bank Contemplated Collecting Higher Interest from Arabs," *Ynet*, 6 November 2002.

¹⁰⁵ See *Sawt Al-Haqq Wal-Hurriya*, 20 September 2002; and "Arab Insurance Agents: Insurance Companies Sever Ties with Us," *Ynet*, 14 November 2002.

Musicians and artists

Racism and the encouragement of violence are also present among artists and singers. In an interview with two local weeklies published by *Ma'ariv*, the vocalist-guitarist *Ronny Peterson*, who was born in America, said that, "We [Peterson and George Bush], are going to conquer the whole region [the Middle East], and kill all the f...[fully spelled out in the original] Muslims."¹⁰⁶ Peterson would be happy with the rapid annihilation of at least 20 percent of the Muslims in nearby areas and in more distant places, and he has an idea how to implement it.

Peterson: At twelve noon, on the same day, Bush must drop four atom bombs: on Riyadh, Baghdad, Teheran, and maybe also on Syria. After that, it will be possible to speak about peace with whoever remains. We have to teach them a lesson!

Interviewer: What about the innocent people, the women and children?

Peterson: It is impossible to think all the time about the innocent people. Now, it is either them or us, and I want it to be us. I am not willing to let some detestable Muslim with a beard and gown manage my life for me! I will kill every last one of them if necessary to save the world.

Interviewer: Are you speaking about Palestinians, or about Muslims in general?

Peterson: Muslims! There is no such thing as Palestinians! They invented it. The West Bank is Jordan and Gaza is Egypt, so let them go home! I am not speaking about transfer and am not in favor of transfer, I want to throw them out!... All the Arabs and their suicide bombers lost all human rights. They are cockroaches! Whoever commits a suicide attack in a mall or in a pizzeria and kills children has no rights!

Peterson is not very well known, but his comments were widely reported.

Ariel Zilber is a better known singer in Israel. In an interview that he gave in March 2001, Zilber attacked Arab citizens of Israel.¹⁰⁷

I have a serious problem with them. I, too, am entitled to self-determination. I don't want a state here that will be Jewish and Arab... The Arabs will finish us off here. We are surrounded by two hundred million Muslims who want to throw us out of here. Whatever we do to them will mean nothing, they will ultimately get rid of us... I am a communist deep down; I believe that everyone is equal. But if an Arab who lives here does not respect the state, does not respect its flag, the anthem, the president, then why will I be for him. Ahmad Tibi and the other

¹⁰⁶ "Master of the World," *Zman Tel-Aviv*, 14 November 2002; and "Kahane? Too Far to the Left," *Zman HaSharon*, 14 November 2002.

¹⁰⁷ Yoav Birnberg, interview with Ariel Zilber, *Yediot Aharonot*, 18 March 2001.

snake [Azmi Bishara], who ran to Syria, bug me ... If we did not exist, there would not be a Palestinian people. They would butcher them. The Egyptians, the Syrians, the Jordanians. They would have crushed them. And if Ahmad Tibi made a peep, they would have lopped off his head in a second.

Other comments that he made in the same interview, in which he attacked homosexuality as a "deviation," led to a public storm and the singer was compelled to apologize. As there was no public outcry regarding his comments about the Arab community, he did not apologize for these insulting remarks.¹⁰⁸ On 13 February 2002, Zilber again verbally abused Arabs and even expressly supported transfer:

We have here [within Israel] almost two million Palestinians [sic]. What do we need this for? We need a Jewish state. They want to get rid of us. What are you going to do?

Zilber mentioned that a distinction must be made between Christian Arabs and Muslim Arabs, "who are against us." When asked if he meant that the Muslims should be put onto trucks and taken across the border, he responded, "Yes, just so." But he added that it "must be done with consent." According to Zilber, "This is the only chance we have to survive here. We have no other option, this is what will ultimately occur. It is clear." The singer explained that he does not hate Arabs, but "slowly, slowly, I may be coming to that." That same day, he was interviewed on Rafi Reshef's program on army radio. In that interview, he preferred to use the term *ha'avara* [transfer in Hebrew] rather than the word "transfer" [in English].¹⁰⁹

On 1 December 2002, the stand-up entertainer *Roi Levy* degraded and insulted an Arab couple from Nazareth during the course of his performance, causing them to leave the room. Levy, who moderates the Channel Two television program "Double Date," appeared at the pub Animal Farm together with his band. At the beginning of his act, he asked if there were any Arabs in the audience. One man raised his hand and said that he came from Nazareth to celebrate his wife's birthday. From that moment until the end of the performance, Levy insulted the couple. For example, individuals who were present said that Levy asked the Arab fellow: "Why do your brothers get up in the morning, take a bag, and decide that they are going to blow themselves up that day?" He later said, "I do not understand how the guards here work, how they let two Arabs in?" A half an hour into the performance, the couple got up and left the pub. But Levy continued with the insults. He closed the door behind

¹⁰⁸ "Zilber Apologizes: All I Wanted to do was Protest," *Walla*, 20 March 2001.

¹⁰⁹ "Ariel Zilber Strikes Again: Transfer for Arabs," *Walla*, 13 February 2002. See also, *Yediot Aharonot*, 13 February 2002. The interview was originally given to the weekly *Makor Rishon*.

the couple and said that they intentionally left personal items of theirs on the table, hinting that they were an explosive device. The pub's owner said that the patrons felt "uncomfortable" and thought that Levy had gone too far.¹¹⁰

A few days later, Levy was interviewed by the weekly *Kolbo*. In response to the question if there were limits in stand-up comedy, Levy said:

I'll tell you: The year is 2002, you are performing as a stand-up comic, you ask if there are any Arabs in the audience, somebody says "yes," what do you do? Whistle and carry on? You have to say something about these matters, it is necessary, that is the whole idea of stand-up comedy... It is natural to speak about it. Everyone thinks about it.¹¹¹

As in politics and in the academy, artistic works that deviate from the Zionist consensus have also been silenced. For example, on 10 December 2002, the *Film Censorship Board* announced that it forbade the screening of the movie "Jenin, Jenin." The notice that the Board's head, Nissim Abouluf, sent to the movie's director, Muhammad Bakri, stated:

After extensive and thorough discussion by the members of the Film Censorship Board, the Board decided to prohibit the screening of the movie, for the following reasons: the film is a distorted presentation of the events, in the guise of documentary truth, that is liable to mislead the public. This is a propaganda movie that gives a one-sided presentation favoring the position of the side with which the State of Israel has been at war, and while the war continues to be fought. This is a movie that gravely hurts the feelings of the public, who are liable to think mistakenly that IDF soldiers systematically and deliberately commit war crimes.¹¹²

This decision was made after the movie had been screened a few times privately, without the necessity of having first received the Board's approval that is required for commercial screenings. The film presents testimonies of residents of the Jenin refugee camp about the events that took place during the Israeli army's incursion into the camp in April 2002. In response to the Board's decision, Bakri, a Palestinian citizen of Israel, said:

This proves once again that democracy among us in Israel is one-sided. Many one-sided movies are made in Israel, but it appears that this is all right only when the producer is Jewish.¹¹³

¹¹⁰ *Yediot Aharonot*, 3 December 2002. In response, the journalist Ra'anan Shaked called on the public to boycott the television program of Levy, whom he called "the little racist." Ra'anan Shaked, "It Has to be Said," *Yediot Aharonot*, 4 December 2002.

¹¹¹ Alon Idan, "It Fits me to Talk about Arabs," *Kolbo* (*Ha'aretz's* weekly for the Haifa area), 6 December 2002.

¹¹² *Ha'aretz*, 11 December 2002. See also *Yediot Aharonot*, 11 December 2002.

¹¹³ *Ha'aretz*, 11 December 2002.

The director of the Tel Aviv Cinemateque, Alon Garboz, said that, "This is one more step that the State of Israel is taking into the darkness of the Middle Ages."¹¹⁴ Yehuda Litani wrote in response to the decision: "From now on, the word is out that we not only occupy and oppress, but also gag peoples' mouths."¹¹⁵ Bakri petitioned the Supreme Court after the Board denied his appeal.¹¹⁶

¹¹⁴ *Ibid.*

¹¹⁵ Yehuda Litani, "Banning with our Defects," *Yediot Aharonot* (Twenty-four Hours), 12 December 2002. See also Yoav Birnberg, "Gagging Mouths or Legitimate Ban?," *Yediot Aharonot* (Twenty-four Hours), 12 December 2002; Meir Schnitzer, "Banning Ourselves," *Ma'ariv* (Today), 25 December 2002; Joel Pinto, "On which Side can One be One-sided," *Ha'aretz*, 18 December 2002; and Ra'anan Shaked, "One Blindness," *Yediot Aharonot*, 11 December 2002.

¹¹⁶ H.C. 316/03, *Muhammad Bakri and the Documentary Producers Forum v. Film Censorship Board and the Ministry of Science, Culture and Sport*. On 10 January 2003, the Court issued a temporary injunction in favor of the petitioners. No final decision has been given.

“The transfer will start from Lydda”

In order to illustrate racism at the local level and to show the dynamic of this racism in daily life, this section discusses the most recent municipal elections in Lydda (“Lod”).

Lydda is a mixed Arab-Jewish city located near Tel Aviv, with a population of 66,100 residents, 19.6 percent of whom are Arab and the rest of whom are Jewish citizens of the state.¹¹⁷ On 14 May 2002, the city held elections. The main subject of interest in the election campaign concerned maintaining the Jewish majority in the city. A number of the lists running in the elections claimed that the city’s Arab residents were the major cause of its problems: crime, drugs, young couples leaving the city, and the huge budget deficit, which led to the early elections. The right-wing parties proposed that the Arab residents be transferred “in a pleasant manner,” that they be concentrated in “their” neighborhoods, that the unrecognized (“illegal” in their terminology) houses be demolished, and that the already poor educational opportunities and infrastructure be restricted. Excerpts from an article published on this subject follow:¹¹⁸

Eli Sa’ar, the mayoral candidate on the Herut list, leads a campaign unprecedented for its blatant messages that focus almost exclusively on the battles against the city’s Arabs. His campaign slogan, “Eli Sa’ar will institute order in Lydda; Herut to fortify the Jewish majority,” cries out from every corner of the city. The pamphlets that he distributes to residents state: “Lydda needs a mayor who is not dependent on Arab votes,” and “only Eli Sa’ar is willing to forego their votes.” Sa’ar calls on the residents to vote against “Tibi’s and Bishara’s control of Lydda, against the wild west in Lydda, against turning Lydda into a hothouse for terror,” and to vote in favor of “a Jewish majority in Lydda, the rule of law in Lydda, quality education for our children.” His letters on the ballot are nun-tzaddik [Netz—hawk in Hebrew]. Sa’ar does not believe in fuzzy messages. He has one explanation for all of the city’s problems. “Penetration of the Arab population into the Jewish neighborhoods causes a more rapid movement of Jews out of the city,” that is, “the failure to enforce the law in various areas for which the Arabs are primarily responsible.” Sa’ar emphasizes that if the city does not wake up now, and preferably with him at the helm, “Lydda will become, within less than ten years, a city with an Arab majority and an Arab mayor. If that happens, I am going to leave the city.”

Sa’ar also has foresight: through “a zoning plan” whose main elements have already been sketched out, he intends to separate the populations. The motto:

¹¹⁷ Central Bureau of Statistics, *Statistical Yearbook of Israel No. 53* (2002).

¹¹⁸ Tamar Nahari, “The Transfer will Start from Lydda,” *Walla*, 14 May 2002. See also Ari Shavit, “Lydda as an Illustration,” *Ha’aretz*, 22 May 2002.

“Co-existence of one alongside the other, and not one within the other.” Pleasantly, through laws enacted by the Knesset, and also by less pleasant, but completely legal means, he seeks to remove the Arab population from the mixed neighborhoods, and have them move to “other places in Israel or if possible to 22 Muslim states.” Arabs who insist on living in Lydda will be offered places in separate neighborhoods where only their people live. A significant number of Arab houses will be demolished by court order because they were built without the requisite permits. Sa’ar contends there are about one thousand such illegally built houses. Sa’ar also intends to create positive incentives for Arabs, by “making available lands in areas designated for them”... Even if Sa’ar’s chances of winning the election are rather minimal, the legitimacy given to his campaign testifies to what the future will bring, and he is not alone.

Arkady Stein, the Yisrael Beitenu candidate for mayor, leads a campaign presenting similar messages. The local campaign conducted by Shas contains anti-Arab messages that are less blatant, but they include plans for an educational system and neighborhoods for Jews only. On the other side, the campaigns of the two leading candidates, Maxim Levy of Likud [who won the election, but died a few months later] and Gabi Asraf of the Labor Party, offered a platform clearly in favor of the city’s Arabs. A short tour of the Arab neighborhoods offers a clear picture of the situation. Shnir, S”H, and the train neighborhood remind one of an average Palestinian refugee camp. The houses lie in random fashion, the streets are narrow, garbage is piled up in every corner, and the stench of dead rats fills the air. Most of the residents do not pay municipal taxes, and receive no municipal services: the residents burn their garbage in the streets, the sewage conduits are not connected to the municipal sewage system. Most of the houses were built without building permits, some of them on private land. The residents claim that the municipality refuses in principle to allow any building by Arabs in these neighborhoods, not even to renovate their houses, so they are compelled to build illegally. In any case, their living conditions are unacceptable. In the western suburbs of the city, one sees the luxury dwellings of the new Ganei Aviv neighborhood, mostly populated by immigrants from the former Soviet Union. Lydda’s Arab residents, many of whom were born in the city, look at them with yearning...

Hate Websites

The Internet provides fertile ground for uncontrolled racism and messages praising violence. In addition to the Jewish Labor website discussed above, in July 2001, the press reported about a website called "Anti-Arab" (www.anti-arab.up.co.il). The website presents Arab jokes, racist photos, explicit threats against the lives of Arabs, and songs that incite against Arabs and Leftists.

One of the photos appears under the title "Who hits it?" The photo is of a round target, a kafiya [traditional Arab headdress], at which two pistols are aimed. Elsewhere on the website appears a threat alongside the words, "Those in the know will understand." It also states that, "For every Israeli who dies, let 100 Arabs die." The website polled its audience on the popularity of leaders, and the names of Minister Rehavam Ze'evi, the leader of Moledet, and Rabbi Meir Kahane, leader of Kach, vied for the top position. The website became a virtual meeting place for Israeli youths who hate Arabs. One of these youths, a seventeen-year-old boy, identified himself as "annihilator of Arabs" and urged "burning Arabs." Another youth, 18, referred to himself as one, "whose hatred for Arabs was in his blood" and stated his readiness to "go into the streets and shout death to Arabs, to hear stories about the Border Police [known for their brutality towards Arabs], and most importantly... to join an undercover unit [that conducts operations against Arabs]."

The website's director said that he is a 22-year-old, secular student who lives in central Israel. He indicated that he changed the name of the website from "Death to Arabs" to "Anti-Arab," after being told that the original name was illegal and because "I have Arab friends." He contended that the website had grown in popularity, and had received more than 8,000 hits [visitors]. According to reports, the Website has not been bothered by the Internet server authorized by the Israeli Ministry of Communication.¹¹⁹ However, it is currently not operational.

One of the websites that is currently operational is "Kahane's Youth" (www.nkahana.com). The homepage of the website opens with these lines:

Shalom, you have reached the website of Kahane Youth. Youth who care about the state!!! Youth who do not stand around and remain silent when Jews are being murdered in cold blood. Youth who want to explain to the world that one Jewish soul is more precious and important than all the Arabs. Youth who understand that there is no choice: the Arab foe must be expelled!"¹²⁰

¹¹⁹ "Racist Website against Arabs Operates under an Israeli Address," *Walla*, 25 July 2001.

¹²⁰ Website last visited on 12 December 2002.

“Arabushim”

This report does not cover radio and television broadcasts because of the inherent difficulties in monitoring these medium. Radio programs that include live conversations with the audience are a wide open stage to racist views. The radio announcer and columnist Natan Zahavi provides an instructive example of an extremist broadcast. On 18 July 2002, Zahavi published a list of racist phrases against Arabs. An extensive excerpt of the article follows:¹²¹

Some statements that I recently heard from conversations with radio listeners, with VIPs, in letters that I received, and from people in the street. Welcome the Israeli racism towards the “stinking Arabushim” [a term comparable to “Niggers”] as it is in fact—without the cant and the pretension... “The Amalek Arabushim multiply like rabbits and threaten to impair the demographic situation in the Jewish state.” “The Muslim Arabushim want to destroy us in accordance with their murderous religious commandments.” “The Arabushim, like the minister and [former] chief of staff [Raphael Eitan] said, are like drugged cockroaches. It is necessary to stomp on them. Or, like snakes as the great rabbi [Rabbi Ovadia Yosef] described them, we have to smash their skulls.” “The Arabushim smell, they are mustachioed, they have a threatening and frightful glance, they are primitives, boisterous, violent, inferior.” “The Arabushim understand only force. Beat them, kill them, and they will respect you. Be kind to them, and they will destroy you.” “Their dream is to screw Jewish women.” “The hope of Arabushim is to take control of the land of the Jews and to cast the Jews into the sea.” “The Arabush woman wants children like rabbits, and when one dies, it doesn’t bother her, she’ll breed another one.” “The Arabushim exploit the good hearts of the Jews; nowhere in the Arabic world are Jews treated like Arabushim are treated in the land of the Jews.” “With incredible chutzpah, Arabush pimps employ Jewish prostitutes.” “Some Arabushim sell drugs to Jews.” “Some Arabushim build villas like millionaires while Jews do not have money to rent apartments.” “There are Arabushim who use the Supreme Court, which loves them, to move into Jewish communities to take them over.” “In summer, Arabush fishermen from Gaza push the jelly fish toward the Jewish coastline to hurt the Jews.” “The Arabushim smuggle Russian prostitutes into Israel from Egypt to infect the Jews with venereal disease.” “The Arabushim force themselves into competition to grab the places of Jews—an Arabush girl [Rana Raslan] was chosen beauty queen of Israel.” “Arabushim suddenly become soccer players, and push themselves into the premier league and even onto the (Left-wing) Israel national team.” “Arabushim are suddenly made doctors and

¹²¹ Natan Zahavi, “The Arabushim,” *Nana Website*, 18 July 2002 (www.news.nana.co.il). See also Natan Zahavi, “The Arabushim,” *Zman Tel-Aviv*, 19 July 2002.

work in hospitals, and operate on Jews. They are also gynecologists who shove their hands into Jewish women.” “Arabushim unashamedly go to the beach and want to swim there with the Jews.” “Arabushim suddenly began to dress elegantly and go to the Jewish malls to do their shopping.” “Arabushim began to act like patriots and became army officers (half of the Arabushim—the Bedouin, Druze, and Circassian populations).” “[Shimon] Peres, whose mother is an Arabush, arranged for several Arabushim to represent Israel, Arabushim diplomats.” “Supreme Court Justice [Aharon] Barak, who loves Arabushim and hates Jews, brought Arabush judges into the courts.”

National Sport

The slogan "Death to Arabs" is most widely heard on Israeli soccer fields. In most instances, the slogan is shouted against an Arab team, or when the opposing team fields an Arab player. The racial undertone found on the field is against dark-skinned players. At times, the audience casts racist jeers at these athletes. But the institutional racist attitude toward Arabs is decidedly different. The racist cries by soccer fans and team members against Arabs are perceived as less serious. For example, in November 2000, the Israeli Soccer Federation decided not to prosecute the Bnei Yehuda team for jeering Baruch Dago, a Jewish athlete of Ethiopian descent, in a match between Bnei Yehuda and Maccabi Tel Aviv. A week earlier, the Federation decided that teams would be responsible for the conduct of their fans. The Federation did not prosecute Bnei Yehuda because, the Federation stated, it had not informed the teams about the change in policy regarding jeering.¹²² A few days later, the Federation decided that the team would not be prosecuted for racist slurs by its fans aimed at Salim To'ameh, an Arab player for Hapoel Tel Aviv, in a league match between the two teams. The Federation concluded that Bnei Yehuda's management had made substantial efforts to put an end to the racist behavior: before the match began, the team distributed hundreds of leaflets calling on the fans to refrain from racist slurs, and repeated the request in the middle of the first half and during the half-time break. After shouts "Salim To'ameh, terrorist, we shall do away with you" continued, police officers arrested four young fans.¹²³

What is the penalty for racism against Arabs in comparison with the penalty for racism against others? Ashdod S. C. was tried for its fans' racist jeers against Maccabi Tel Aviv's Baruch Dago. It was fined NIS 20,000 and received a conditional punishment of playing a home game a certain distance from their home field, with their fans allowed to attend. In response, the chairman of the team, Yigal Arbiv said, "It is impossible to believe that for a whole year shouts of 'Salim To'ameh is a terrorist' are heard and no team is punished..."¹²⁴ In contrast, six months later, the Federation's disciplinary court fined Bnei Yehuda NIS 3,000, together with a conditional fine of NIS 5,000, for shouts of "Death to Arabs" during a match with the Arab team Maccabi Kafr Kana. In response, the manager of Bnei Yehuda said, "In the current political situation, it is very hard to prevent racist behavior."¹²⁵

In March 2001, it was reported that the police had requested the Hapoel Ramat Gan team to mark the tickets issued to the supporters of Bani Sakhnin

¹²² "No Prosecution for Bnei Yehuda," *Walla*, 14 November 2000.

¹²³ "Bnei Yehuda not to be Prosecuted for Racist Shouts," *Walla*, 22 November 2000.

¹²⁴ "Racism is Expensive: Ashdod Fined NIS 20,000," *Walla*, 7 March 2001.

¹²⁵ "NIS 3000 Fine against Bnei Yehuda for Racist Jeers," *Walla*, 12 September 2001.

with a different color (the team of the Arab town Sakhnin, which was scheduled to arrive for a match between the two teams). The police also requested that a separate ticket stand be opened for Sakhnin fans. The chairman of Bani Sakhnin, Mazen Ghanaim, said in response, "The measure has a racist scent. I do not know where the police got such an idea. To mark an audience by the [nationality] group they belong to is something that I don't believe even the apartheid government in South African ever did."¹²⁶

In April 2002, Attorney General Elyakim Rubinstein wrote to the chairman of the Soccer Federation, Gavri Levy, requesting that the Federation act diligently against racist jeering in the stadiums. The Attorney General mentioned that it had recently been decided to prosecute a soccer fan who called out "Death to Arabs" during a match. Rubinstein said that the phenomenon works its way like poison into Israeli society and deepens the fissure between Jews and Arabs in Israel.¹²⁷

The calls of "Death to Arabs" became a part of the identity of fans of Betar Jerusalem, one of the major teams in Israel. The fans, most of whom come from the traditional Mizrahi sector of the population, and other persons involved with the team, are identified with the political Right.¹²⁸ Anat Rimon-Or, who has studied the phenomenon of the "Death to Arabs" calls of this group, contends that such slogans and acrimonious speech in general, can be understood as a kind of speech aimed to give the speakers a place in the Zionist debate, enabling the Oriental speaker to hold on to his Zionism without dividing himself.¹²⁹ Rimon-Or writes:

The cries of "Death to Arabs" shatter two central, cultural foundations in Israeli society. One is connected with the security ethos, and the other with the manner of coping with the Holocaust of European Jewry. Regarding the first, these cries make one conscious of what is supposed to be masked by the ethos: the death of the Arab is a founding act of the national culture—a precious act that for many years was reserved solely for the Ashkenazi Jews, both because of their origin

¹²⁶ "Ramat Gan Required to Mark the Tickets of Sakhnin," *Walla*, 14 March 2001.

¹²⁷ "Fan who Called out 'Death to Arabs' to be Prosecuted," *Walla*, 23 April 2002. Three months later, it was reported that the State Attorney's Office decided to prosecute the distributor of the sticker, "No Arabs, No Terrorist Attacks," on suspicion of inciting to racism and for supporting a terrorist organization. According to the allegations, the suspects are members of the banned movement, Kach. See *Ma'ariv*, 29 July 2002. In another case, derisive phrases such as "expel the Arabs" and "Kahane was right" were sprayed on the Catholic Church in Haifa. See *Yediot Haifa* (*Yediot Aharonot*'s weekly for the Haifa area), 11 October 2002.

¹²⁸ "Identity between Betar Jerusalem and the Right, and primarily to the Likud, began to develop in the 1970s—during the same years that Betar became one of the leading teams in Israeli soccer, simultaneous with the rise of the Likud's political power." Asher Goldberg and Doron Bergerfreund, "First We'll bring a Foreign Player who is Muslim, then maybe an Arab Israeli," *Ha'aretz*, 10 January 2003. The article mentions that during the 63 years that the club has been in existence, it has not had one Arab player.

¹²⁹ Anat Rimon-Or, "From Silence to Voice: 'Death to the Arabs' in Contemporary Israeli Culture," *20 Theory and Criticism* 23 (2002) [in Hebrew].

and because they were the leaders in society; in the other case, it transgresses the boundaries aimed at ensuring that annihilation is outside the bounds of debate in the Land of Israel. In this ethos, too, the Oriental Jews play only a marginal role...¹³⁰ The absence of Arabs (ultimate death) establishes a class culture in Israel, both as regards the ethos and as regards daily life, in which it is also a symbol of class. In this aspect, the cries of "Death to Arabs" serve a double function: it offers super-conformity (death to Arabs = high degree of Zionism), on the one hand, but dismantles the basic structure, in which death of the Arab and the violent act in general are intended to be masked, on the other hand.¹³¹

¹³⁰ *Ibid.*, p. 49.

¹³¹ *Ibid.*, p. 51.

Delegitimization of the leadership of the Palestinian minority

An important part of the delegitimization of the Palestinian minority in Israel, as a whole, is the delegitimization of its leaders. This delegitimization results, in part, from the fact that the Arab leadership does not belong to the Zionist consensus, particularly at a time in which there is a grave conflict taking place in the Occupied Territories between the Palestinian people and Israel. Numerous examples have been provided in this report of the delegitimization process and its manifestations. In this chapter, additional examples are presented, however, it is impossible to include all the statements and acts of hatred directed toward the political and religious leadership of the Palestinian minority.

In January 2001, MK Eliezer Cohen (National Union—Yisrael Beitenu) distributed a letter among MKs in which he called on Jewish MKs to leave the plenum each time that an Arab MK takes the podium to speak. In his letter, which was titled, “War Situation with the Palestinians,” Cohen wrote:

Does anyone consider it conceivable that in World War II a German, not an SS officer, not a Nazi, but a plain German, could stand on the podium of the British Parliament in London and speak in favor of Nazi Germany?¹³²

In October 2001, MK Yisrael Katz (Likud) distributed among MKs envelopes bearing the pictures of Arab MKs (‘Abd al-Malek Dahamshe, Ahmad Tibi, Azmi Bishara, and Muhammad Barakeh) alongside the pictures of Osama Bin-Laden, Yasser Arafat, Hassan Nasrallah, and Marwan Barghouti. On the envelopes was written: “Each one and his Bin-Laden, we must stop the terror in the Knesset.” Katz distributed these envelopes prior to the hearing in the Constitution, Law and Justice Committee on the proposed Basic Law: The Knesset (Amendment No. 35)—2002 that he introduced and which was later enacted into law. This new law, which was discussed in Chapter 1, prohibits a candidate’s list from running in the Knesset elections if it expresses “support for an armed struggle of an enemy state or of a terrorist organization against the State of Israel.”¹³³

During a debate on the Knesset House Committee’s proposal to remove the immunity of MK Azmi Bishara, MK Michael Eitan (Likud) said about MK Talab El-Sana (UAL): “To this Bedouin, to a Bedouin, an attorney now, who arose here and vilified the state...” MK Ilan Gillon (Meretz), who spoke after Eitan, said: “Your comments, MK Eitan, are very upsetting in their pretension. This Bedouin, on whom you spoke not more than a minute ago as a completely

¹³² *Ha’aretz*, 24 January 2002. See also, A. Haider *supra* footnote 25.

¹³³ *Ha’aretz*, 22 October 2002.

equal citizen of Israel, is this Bedouin who has the right to state his position and his opinion..." MK Eitan apologized following Gillon's comments.¹³⁴

Religious leaders of the Palestinian minority are also attacked by the Jewish public and by the establishment. An example is the case involving Sheikh Ra'ed Salah, who is the head of the extra-parliamentary branch of the Islamic Movement in Israel. The Minister of Interior issued an order against Salah preventing him from leaving Israel (see Chapter Two). Salah's deputy, Sheikh Kamal Khatib, was questioned under caution in November 2002 on suspicion of incitement for the comments he made at an assembly of youth and children at al-Aqsa mosque. Khatib was also questioned under caution in late 2001 for statements he made at the sixth assembly of "al-Aqsa in Danger."

A Greek Orthodox religious leader, Archimandrite Atallah Hana, was questioned by the police regarding statements he made, which the police contended, supported suicide attacks. The police confiscated Hana's car and said they would return his passport only if he signed three commitments: not to visit Arab countries without first obtaining permission, not to meet with members of organizations classified as terrorist organizations, and not to make any further statements against the State of Israel. Hana refused to sign.¹³⁵

Following the submission of a proposed bill by MKs from the Democratic Front for Peace and Equality (Hadash) list that would allow, by statute, the Palestinian struggle against the occupation, coalition chairman MK Ze'ev Boim (Likud) said that the bill was one more indication that the Hadash MKs are "collaborators and Trojan horses of Yasser Arafat."¹³⁶

On 15 May 2001, MK Ahmad Tibi (Ta'al) spoke before the Knesset's plenum and charged the Israeli army Chief-of-Staff Shaul Mofaz (later minister of defense in Sharon's government) with "cold-blooded murder." This charge followed the killing of five Palestinian policemen in Betunya, during an attack by the Israeli army in the Occupied Territories. Tibi also called Mofaz a fascist. MK Nehama Ronen (Center Party), acting Speaker of the Knesset at the session, asked Tibi to finish his comments. When he refused, she turned off his microphone. Minister Eli Suissa (Shas), who followed Tibi at the podium, told Ronen: "As soon as he said the first sentence, you should have hurled him out." He proposed that Tibi "go to the parliament in Gaza. I want to see if Arafat will let you [Tibi] speak like that."¹³⁷

In December 2002, MK Ayoob Kara (Likud) spoke out against the "extremist" Arab MKs, who in his opinion are a danger to the existence of the

¹³⁴ The 243rd sitting of the Fifteenth Knesset, 6 November 2002.

¹³⁵ *Ha'aretz*, 3 November 2002 and 5 November 2002.

¹³⁶ "The Right: Ban Proposed Bill of Hadash to Allow Armed Palestinian Struggle," *Walla*, 1 January 2002.

¹³⁷ "Tibi—Tanzim Representative in the Knesset," *Walla*, 16 May 2002.

State of Israel. Kara said that he intends to achieve a ban “without thinking twice” of the “extremists” among the Arab MKs, as he described them, with Ahmad Tibi and Azmi Bishara at the top of the list. He added: “The real foe of the State of Israel is not Arafat but these members of the Knesset, who make cynical use of democracy and constitute an existential, concrete danger to the State of Israel.”¹³⁸

¹³⁸ *Yediot Haifa* (*Yediot Aharonot*'s weekly for the Haifa area), 6 December 2002.

Racism and violence

"A good Arab is a dead Arab," so proclaimed a teacher at the Rabin School in central Israel to her fifth grade class during a lesson on the assassination of Prime Minister Yitzhak Rabin. The teacher also said that, "It is more important to commemorate the anniversary of the murder of Gandhi [Minister Rehavam Ze'evi] than that of Rabin."¹³⁹

The path from racism and verbal violence to physical violence is very short. Palestinian citizens of Israel suffer from this violence in all areas of their lives. This violence is directed at the Palestinian minority by security officials, police forces, and by the Jewish public. Mossawa - The Advocacy Center for Arab Citizens of Israel reported that ten Palestinian citizens of Israel were killed in the past two years by Israeli security forces (in addition to the 13 Arab demonstrators who were killed during the mass protests of October 2000). The ten Arab citizens of Israel who were killed lived in the Negev and on the seam line in Wadi 'Ara. The forces who shot them to death were soldiers, policemen, officials of the Bedouin administration in the Negev, and the Green Patrol. The victims were on their way to visit relatives or on their way home from work, and some were shopping and preparing for the holidays. The families of the victims were not given financial assistance or emotional support of any kind by the authorities. Those who fired the bullets that killed the Arab victims were not prosecuted, except in one instance. The media reported that the victims were suspected of involvement in attacks on security forces; when the suspicions were refuted, the media remained silent. In one instance, the media published a picture of the soldiers who did the shooting proudly showing off the body of the victim that was left lying on the ground for hours.¹⁴⁰

Some members of the Jewish public are also involved in physical violence against the Palestinian minority in Israel: at sports events, on buses following suicide actions taken by Palestinian organizations, and the like.¹⁴¹

¹³⁹ *Yediot Aharonot*, 6 October 2002.

¹⁴⁰ *Kill and Ignore—The Circumstances of the Deaths of Arab Citizens by Gunfire of Policemen and Soldiers* (Mossawa, October 2002).

¹⁴¹ In another incident, which occurred in the Jewish city of Kfar Saba, the clinic of an Arab dentist from Tira was torched by individuals who wanted to prevent him from operating a clinic in a Jewish neighborhood. Galit Shafir, "A Mixed Blessing," *Zman HaSharon* (*Ma'ariv's* weekly for the Hasharon area), 25 July 2002. See also the case in which Israel's national airline, El Al, prevented 17 Palestinians, 15 of them citizens of Israel, from boarding a flight from Egypt to Israel. Following the decision, and in light of the violent behavior of the security personnel, a disturbance broke out at the Cairo airport. *Ma'ariv*, 11 August 2002. In another case, involving the Israeli airline Arkia, an Arab couple was assaulted and humiliated by security guards, who also refused to let them board the flight. "Natserat Illit (Upper Nazareth) Couple: Arkia Security Guards Beat and Humiliated Us," *Ynet*, 23 December 2002. See also the case in which a group of 20 Jewish youth assaulted four Arab families from Tira and Qlansawa on the beachfront in Givat Olga. Joseph Algazy, "'You are Arabs?' asked the Assaultants," *Ha'aretz*, 23 July 2002.

On 31 October 2002, a large number of Jewish youth attacked a group of Arab youth who were playing soccer on a field in the Neveh David neighborhood in Haifa. The Jewish youth attacked them with clubs, knives, and iron bars, and three of the Arab youth were hospitalized as a result. One of the injured, a 17-year-old, related what occurred: "This was not the first time that we came to play there. We live in another neighborhood in Haifa and go elsewhere to enjoy [playing in] another location. Suddenly, lots of young Jews came over to us and demanded that we leave the field and the neighborhood. They said to us, 'Arabs out!' It was racist and ugly. They left, and suddenly a large group came with daggers and knives, iron bars, and clubs. We tried to flee. I was struck in the head and lost consciousness. My friend was knifed in the hand. It was scary and shocking." Police were summoned to the area, but the assailants had fled.¹⁴²

Speaking Arabic in public is also dangerous. On 5 November 2002, three Arab youth were beaten by police during a bus ride from Tel Aviv to Jaffa. The three youth were members of the Arab-Jewish youth movement Re'ut-Sadaka. One of the Arab youth spoke about the incident:

The bus was full, and we were speaking, as we usually do, in Arabic. When we got to the area of the old central bus station, one of the women on the bus decided that we were terrorists and went to the driver. The passengers looked at us as if we were lepers. I went over to her and asked why she said that. Even though she does not speak Arabic, she contended that we said we were going to blow up the bus. She shouted that we were Arab terrorists and should go to Arafat. The others on the bus began to curse us, and shouted for us to go to Gaza.

The bus driver summoned the police. The Arab young woman who had been assaulted related what happened then:

The bus stopped and policemen got on from all directions. Two policemen came over to me. I was already hysterical. One of them shoved his face into mine and shouted at me: "Shut up!" He told me to get up, and I told him that I was not moving because I had paid. He lifted me up by my neck, grabbed my hair, and took me off by force. He was choking me, and when I tried to free myself, I scratched him by mistake. We [the detainees] were at the police station from 7:00 p.m. to 2:00 a.m. We were released on NIS 3,000 bond each. At the station, they told me that a complaint had been made that I was a terrorist. It was degrading and racist.

According to the police version of the incident, two passengers went over to

¹⁴² "Came to Play Soccer and were Beaten because They were Arabs," *Yediot Aharonot*, 3 November 2002.

the driver and told him that three passengers speaking in Arabic had said that, "There will soon be a boom and the bus will explLyddae." One of the three assaulted one of the passengers who had given the information to the driver, and when the police arrived, she began to act up, refused to accompany them, and assaulted a police officer.¹⁴³

After the 21 November 2002 suicide bombing on a bus in Jerusalem, the city witnessed a wave of racist attacks against Arabs. The press reported on dozens of such attacks. On the evening of the bus explosion, three young Arab women students were assaulted near their dorms by Jewish youths, who also shouted "Death to Arabs." A young Arab man who went to help them was injured. The guards at the dorms, who were nearby, did nothing to help. The press also reported that on the same day, a petrol bomb was thrown at a Palestinian-owned bakery located near the site of the suicide explosion.

The next day, Jewish youths in Kiryat Yovel threw stones at the cars of Arabs. In two of the stone-throwing incidents, the cars' windows were shattered. The tires of a car belonging to an Arab student, parked near the dorms, were punctured. In the Abu-Tor neighborhood of Jerusalem, the tires of 14 cars belonging to Arabs were punctured. No suspects were arrested. Two days after the bus explosion, ten Jewish youths returned to the bakery, rioted inside the shop causing great damage and fled. Three of them were later arrested.¹⁴⁴

In another case, an Arab student, Muder Mureh, 19, was stabbed while on his way from the dorms to his job. While he was speaking on his cellular phone, Mureh stated that he noticed that a group of youths, whom he had just passed, were coming after him. When he reached the bus stop, which was empty, three of the youths came up to him, while three others surrounded the bus stop. One of them asked him, "What time is it?" Mureh knew the significance of the question "What time is it?"; it is often asked to give the questioner one last opportunity to ensure that the person asked has an Arabic accent. "When I answered 'seven ten,' one of them kicked me," Mureh said. He managed to get away from them temporarily, but at the next bus stop that he reached, three of the Jewish youths caught up with him. This time, they grabbed hold of him, tied him up, and one of the assailants stabbed him twice in the back. The

¹⁴³ "Youngsters: We were Arrested by Force because we Spoke Arabic on the Bus," *Ha'aretz*, 6 November 2002; and "I am a Proud Arab Woman, and Whoever has a Problem should Get Off the Bus," *Walla*, 7 November 2002.

¹⁴⁴ 24 November 2002; *Yediot Aharanot*, 24 November 2002; and *Ma'ariv*, 22 and 24 November 2002. In *Ma'ariv*, this event received scant coverage. A short report was printed on the back pages of the newspaper in a margin of an article about the individuals killed in the suicide explosion. It should be mentioned that in the two articles in *Ma'ariv*, the editors did not think the article warranted a major headline. They printed a short report in the margin of an article on the persons killed in the suicide explosion, which was placed on the back pages of the paper (page 14 in the case of the second article).

attacker also tried to stab him in the stomach, but Mureh avoided the knife. The three youths then fled. Nobody in the area did anything to stop them and no bystander went over to help Mureh, who was bleeding. For several minutes, he tried to hail a taxi to take him to Hadassah Hospital, Ein Kerem, which was located five minutes by car. He said that, "A car of the security-guard company stopped, but when the driver heard my Arab accent, he said, 'Close the door and get out of here.'" Finally, while he was standing in the middle of the street, somebody stopped and rushed him to obtain medical treatment. Mureh packed up his belongings and went back to his village, Kufr Kare'a. He says that he does not intend to return to Jerusalem. A resident of Kiryat Yovel told *Ha'aretz*: "What are they [Arab students] doing here anyway? They should get out of here." Another resident, a 17-year-old, explained that the Arab students, "are the only ones against whom the anger can be vented. If the residents here see that the government is taking action against them, then maybe the people would calm down."¹⁴⁵

¹⁴⁵ *Ha'aretz*, 25 November 2002.

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Sefer Hahukim (Laws of Israel)

Mada—The Arab Center for Applied Social Research is a non-profit, independent research institute founded in 2000 and located in Haifa, Israel.

Inspired by concern for the human and national development of the Palestinian citizens in Israel, Mada aims to promote theoretical and applied research on this minority. Mada focuses on the social, educational, and economic needs of Palestinians in Israel, national identity, democratic citizenship and Israeli government policy. Broader issues of identity, citizenship, and democracy in multi-ethnic states are also addressed.

Mada's overriding goals are:

- To provide an institutional base and an intellectual climate to study the needs and collective future of Palestinians in Israel, and their relationship with Israel, the Palestinian people, and the Arab World;
- To enrich theoretical perspectives and applied work on national identity, citizenship, and democracy by stimulating cross-national comparative research with like-minded institutes in other multi-ethnic states;
- To facilitate links with Israeli, Palestinian, and international academics, NGO activists, and political actors to formulate public policy proposals designed to improve the economic, political, and social conditions of Palestinian citizens;
- To train Palestinian social scientists in new critical approaches;
- To promote a new and critical discourse on Palestinian-Jewish relations in the country.