

# Full and Equal Citizens? How to deliver equality for Israel's Arab community

By Adam Hug

Preface by Stephen Twigg MP

The Foreign Policy Centre



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## **About the report and acknowledgements**

This report aims to give an overview of the important and complex issue of how to deliver equality for Israel's Arab community. It brings together the findings of a number of wide-ranging discussions with a range of experts both in Israel and beyond, combined with other research. However, it can only act as an introduction to the wider debate on this issue, on which much excellent material is available, most of it at least in partly in English, from bi-communal co-existence organisations such as the Abraham Fund Initiatives and Sikkuy; advocacy organisations such as Adalah, Mossawa, WAVO, umbrella organisations including the UK and USA Taskforces and donors such as the New Israel Fund.

For reasons of brevity, some major issues have been left out of this report, most notably in the areas of education and policing. In these areas the work conducted by the Abraham Fund on promoting reform of state systems is recommended as further reading. Similarly, there are several issues within the Arab community, most notably women's rights, that are important but neglected here due to this report's focus. The focus on Arab community is not to detract from the many and complex problems facing Israel's migrant, Mizrahi (Jews from the Middle East, North Africa and Caucasus), Ethiopian, Haredi (Ultra-Orthodox), Russian and other minority communities who also face discrimination. However, similarly for reasons of brevity and in order to prioritise an issue with wider political implications, they are not addressed directly in this report.

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**Preface by Stephen Twigg MP**

*Shadow Foreign Minister with responsibility for the Middle East and human rights and former director of the Foreign Policy Centre*

This report offers a very important contribution to the debate on the conditions that must be reached for lasting peace and security in the Middle East. I welcome the report and the work of the Foreign Policy Centre on the rights of minorities across the world.

The lack of progress towards peace is of deep concern and we must continue to use all of the levers at our disposal to press for progress towards a two-state solution with a viable Palestinian state living in peace alongside Israel.

The issue of rights for Arabs citizens of Israel proper is often overshadowed by the many issues in the West Bank and Gaza. This report, rightly, calls on us to engage in this critical debate. By offering a comprehensive assessment of the defining features and challenges in relation to Arab rights, this report paves the way for informed debate as to how we can support the work of progressives within Israel to challenge inequality and discrimination.

The report describes the seminal work of the Or Commission, a credible benchmark from which to frame discussions on Arab equality. A range of measures indicate disparities between Arab and Jewish citizens of Israel, in particular economic outcomes, educational attainment and access to housing and land.

The inequalities are rooted in the complex history of the struggle for self determination for both Jews and Arabs. This report addresses the challenges at the heart of this issue, providing a basis from which to foster a nuanced and critical narrative on a subject area that is all too often dominated by polarised views.

We must use all of the levers at our disposal to press, as friends of both the Israeli and the Palestinian people, for progress towards peace and security. This report documents the positive contribution of the UK and the EU in support of defending and extending Arab equality. I would like to extend praise to the work of the *UK Task Force on issues facing Arab Citizens of Israel* for its commitment to building a shared society for Israel's Jewish and Arab citizens.

I want to thank the FPC for addressing this issue and I hope that it will provoke constructive dialogue on the expansion of the rights of Arab Israelis.

## **Executive summary**

This report seeks to provide an overview of some of the main challenges facing Israel's Arab minority community. It highlights three of the most important areas of political climate; employment; and the linked challenges of planning, housing and access to land. While the majority of the focus is on the largest community, Arab-Palestinian Citizens of Israel many of its observations are relevant to the Bedouin and to a lesser extent the Druze Community.

Recent efforts to force Israel's Arab community to pro-actively recognise Israel's status as a Jewish state, something already clearly defined in Israel's basic law, or reject their own historical narratives are deliberately posed to enflame community tensions, undermine the status of their citizenship and limit legitimate debate about the country's future. Such moves should be firmly resisted. The increasing stridence of discriminatory forces in Israeli political life and Arab alienation poses significant problems for the future of community relations in Israel. The continued presence of a sizable minority of Israelis unwilling to accept equal rights for all citizens further underlines the gravity of the problem.

The report highlights the disparities in economic circumstances between the Jewish and Arab communities and in the allocation of government funding. It shows how the failure to produce town and city plans are at the root of many interlinked problems of housing, economic development and government funding. It examines persistence of discriminatory practices in state land allocation that restrict community intermixing and the provision of adequate housing for Israel's Arab community. Despite the difficult situations the report notes certain areas of progress most notably the creation of the Equal Employment Opportunities Commission (EEOC) and the development of the UK and North American taskforces specialising on these important issues.



## Summary of recommendations

- Resolve the planning crisis by delivering new and completed town and city plans for areas with significant Arab minority communities as a matter of urgency, a measure that will also help tackle inequality in housing and municipal funding. If the Israeli Government fails to achieve this, the EU should deploy significant extra funding to enable civil society and international experts to submit a full set of plans for approval.
- Reform land, housing and municipal funding allocations to prevent discrimination, in line with Israeli anti-discrimination law and international standards. Achieve equal distribution of state funds between communities and then move to target resources according to need, proactively favouring the Arab community till significant improvements are made.
- Meet the 2012 target of 10% Arab employment within the Civil Service. Strengthen the new Equal Employment Opportunities Commission, move it to independent status and look long-term at creating a separate equality and human rights body with a wider remit.
- Continue and expand EU support for projects in the sector, particularly in the area of planning, reminding Israel that attempts to restrict this would breach the EU-Israel Action plan and EU-Israel Association Agreement. Raise issues relating to Israel's Arab community as part of EU-Israel dialogue and look at wider a wider incentive structure for improvement as part of wider reform of EU foreign policy.
- Build greater support for the UK and US Jewish community taskforces on Israel's Arab community and expand their work to the EU level.

## Definitions

This report does not address issues facing Palestinians living in the Palestinian Authority/Occupied Territories including those in East Jerusalem. Its focus is on the Arab community who are Israeli Citizens. For the purposes of this report the headline term 'Arab Community' comprises three main groups.

In Israel the largest sub-group of Israel's Arab population are those, of both Muslim and Christian faith, living in settled communities. This report will use the term *Arab-Palestinian Citizens of Israel* when referring specifically to this group. However this group is routinely referred to in official and public discourse in Israel as Israeli Arabs, Arab Citizens of Israel or other variants with the term 'Arab' being used as the primary identifier, with Palestinian referring to residents of the West Bank and Gaza. However it is the judgement of the author that on balance the majority of the members of this group of Israeli citizens use the term 'Palestinian' as an integral part of the way in which they identify themselves either in the form used here *Arab-Palestinian Citizens of Israel*, as *Palestinian Citizens of Israel* or another form of words. Dr Sammy Smooha's research on Arab attitudes shows that in 2009, 59.6% of the overall Arab population gave their self-identity in a form incorporating the term Palestinian<sup>1</sup>. There remains a significant minority within the group, perhaps those who are most integrated into Israeli society, who tend to primarily define themselves as Israeli Arabs or a similar term without the Palestinian identifier. In 2009 this was 39.6% of Dr Smooha's sample. Perhaps as an indication of the inter-communal problems in Israel over the course of the last decade, as recently as 2003 a majority (53%) defined themselves as Israeli Arabs without the Palestinian identifier.

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<sup>1</sup> Prof Sammy Smooha, Arab-Jewish Relations in Israel: Alienation and Rapprochement [http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67\\_Smooha\\_1a.pdf](http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67_Smooha_1a.pdf) (Accessed November 23rd 2010)

This report will attempt to distinguish where relevant the Bedouin and Druze communities from this main Arab-Palestinian citizen group as they have distinct characteristics that differentiate their communal experience from that of the larger group. Members particularly of the latter community are unlikely to use the term Palestinian as part of their identity and assert their unique heritage. Throughout this report the use of the term Arab community (or where sentence structure determines Arab) refers to these three communities together.

## 'Full and Equal Citizens'?

*"The state of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations...."*

*We appeal - in the very midst of the onslaught launched against us now for months - to the Arab inhabitants of the State of Israel to preserve peace and participate in the upbuilding of the State on the basis of **full and equal citizenship** and due representation in all its provisional and permanent institutions."*<sup>2</sup>

Israel's declaration of independence was a document forged in a time of war. Written after almost a year of civil war, the second to rock British Mandate-controlled Palestine in the space of twelve years following decades of communal unrest, it marked the opening gambit in a wider regional conflict that would create the first Jewish state since antiquity and a large Palestinian refugee community in the West Bank, Gaza Strip and neighbouring Arab States. As Israel continues to follow the British Mandate tradition of an unwritten constitution, it remains the most important document in Israel's constitutional settlement forming the foundation of basic law. It makes clear that not only should the new state be Jewish in culture and democratic in structure but that it should provide full civil and political rights to the Arab inhabitants of Mandate Palestine who would live alongside the Jewish population within the new state.

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<sup>2</sup> Israel Ministry of Foreign Affairs, **The Declaration of the Establishment of the State of Israel** <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Establishment+of+State+of+Israel.htm> (accessed 23<sup>rd</sup> November 2010)

Looking at Israel 62 years on, it is important to assess how far it has come along the road of achieving that latter goal, a challenge that is often overlooked amongst the wider strategic problems in the Middle East peace process but is nonetheless integral to Israel's long-term stability.

While Israel's Arab community are one of the more prosperous Arab communities in the region (excluding the Gulf states), there remain clear disparities between Israel's Jewish and Arab communities in terms of economic outcomes, educational attainment, access to housing and land. Furthermore, members of the Arab community often face suspicion and sometimes outright hostility from significant sectors of the Jewish community in a society where intermixing is rare.

This report argues that the divide between Israel's Jewish and Arab communities, despite some areas of progress, remains wide and is in many areas widening. The issue of identity is becoming increasingly politicised and polarised. In addition to attempting to explain this and analysing the situation, particularly for a non-expert audience, this report makes several recommendations, not only for Israel but also for the international community and the diaspora donor community.

### **Who are Israel's Arab community and what is their history?**

Israel's Arab community stems from the communities that pre-dated the State of Israel's formation, living under Ottoman and then British mandatory rule. The majority pre-existing population was displaced<sup>3</sup> in the civil unrest of 1947-8 and the War of Independence/ 1948 War, and the remaining communities (approximately 157,000, although this, as with

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<sup>3</sup> The refugee problem is not a topic for this report. However the way in which the history of this is being taught in Israeli schools is a growing source of friction between the Arab and Jewish communities with recent political attempts to prevent the teaching of the Palestinian historical narrative within Israeli Arab schools and to restrict the commemoration of the Nabka (catastrophe) the Palestinian term for the creation of the state of Israel and the attendant refugee issue.

most demographic data from this period, figures vary widely) were absorbed into the Israeli state. In the years since, Israel's two main communities have not significantly integrated, with the Arab community remaining for the most part marginalised politically, economically, socially and geographically. For Arab-Palestinian Citizens of Israel there remains a significant struggle between an Israeli national identity, defined as being Jewish in character, and a Palestinian national consciousness, buttressed by the development of Palestinian political institutions, particularly since the 1960s<sup>4</sup>. It is a struggle that has implications both within the community and in the way it is treated by the majority Jewish community, with politicised attempts by the right to define the Arab community as a 'fifth column,' which is explored later.

Getting an accurate statistical picture of Israel's Arab community can prove quite a challenge due to the controversial inclusion of the population of East Jerusalem<sup>5</sup> within the majority of official Israeli data<sup>6</sup>. Official figures for the end of 2008 put the size of the Arab population at 1,487,600 (20.1%) out of a total population of 7,374,000 (75.5% Jewish, 4.3% other). However 270,000 of the 'Arabs' counted in the statistics are residents of East Jerusalem, almost all of whom have not taken up Israeli citizenship. When they are removed from the data, the proportion of Arab citizens in the population drops to around 17.1%. While this is important to consider in terms of the actual population groups being analysed, it is very difficult to compare it to the majority of other national level statistics due the presence of the East Jerusalemites.

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<sup>4</sup> Again a topic too broad for this report but key points would include the takeover of the PLO from the Arab States by Palestinian led factions throughout the mid to late 60s, the two intifadas (the first developing Palestinian identity amongst Arab Israeli's, the second in particular driving a political wedge between Israel's two communities) and the creation of the Palestinian Authority.

<sup>5</sup> The annexation of East Jerusalem by Israel in 1980 has not been recognised by the international community.

<sup>6</sup> Central Bureau of Statistics, Statistical Abstract of Israel 2009

[http://www1.cbs.gov.il/reader/shnaton/templ\\_shnaton\\_e.html?num\\_tab=st02\\_01&CYear=2009](http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_01&CYear=2009) (accessed November 23<sup>rd</sup> 2010)

The breakdown of Israel's Arab community by religion shows 83% to be Muslim, with 8% each for the Christian population and Druze community<sup>7</sup>. Amongst the Muslim population is the distinct Bedouin community, a historically nomadic but now predominantly settled group found mostly in the south of Israel. With recent statistics hard to come by, the Bedouin population numbered at 171,000 in 1999<sup>8</sup>. Despite often extreme poverty as a group they perhaps sit between the Druze and main body of Arab-Palestinian Citizens of Israel in terms of integration into the institutions of Israeli society. The Druze ethno-religious grouping, at 8% of the overall Arab population, are significantly better integrated into Israeli life and society than other groups, with men conscripted into Israeli Defence Forces, parliamentary representation in several of Israel's main political parties and higher standards of living.

## **The Or Commission**

When exploring some of the challenges facing Israel's Arab community it is important to state that though the issue is highly contested both inside and outside Israel, in 2003 the Israeli state formally recognised many of the challenges discussed in this report through a landmark official commission led by Justice Theodore Or.

The report stemmed from the police shooting of 12 Arab-Palestinian Citizens of Israel during rioting in October 2000 that accompanied the outbreak of the Second Palestinian Intifada (Uprising). The Or Commission was set up to investigate the riots and although its findings are largely focused on the actions of individual politicians, community leaders and police officers, it is the most notable official recognition of systemic

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<sup>7</sup> Central Bureau of Statistics- State of Israel, The Arab Population in Israel 2008  
[http://www1.cbs.gov.il/www/statistical/arab\\_pop08e.pdf](http://www1.cbs.gov.il/www/statistical/arab_pop08e.pdf) (accessed November 17th 2010)

<sup>8</sup> Israel Land Administration, Bedouin Information Sheet,  
[http://www.mmi.gov.il/static/HanhalaPirsumim/Beduin\\_information.pdf](http://www.mmi.gov.il/static/HanhalaPirsumim/Beduin_information.pdf) (accessed November 23<sup>rd</sup> 2010)

discrimination by the state of Israel against its Arab community. In the introduction to the report's summation it clearly states that:

*Government handling of the Arab sector has been primarily neglectful and discriminatory. The establishment did not show sufficient sensitivity to the needs of the Arab population, and did not take enough action in order to allocate state resources in an equal manner. The state did not do enough or try hard enough to create equality for its Arab citizens or to uproot discriminatory or unjust phenomenon. Meanwhile, not enough was done to enforce the law in the Arab sector, and the illegal and undesirable phenomena that took root there.*

*As a result of this and other processes, serious distress prevailed in the Arab sector in various areas. Evidence of the distress included poverty, unemployment, a shortage of land, serious problems in the education system and substantially defective infrastructure.'*<sup>9</sup>

The report further identified issues around the mutual recognition of the complexities of identity, the 'ideological-political radicalisation of the Arab sector' and criticisms of both Arab and Jewish political leadership and its citizens'. It has helped to frame the debate on this critical issue and, for an official report, its candour and radicalism set an important benchmark for Israeli public policy.

Looking back at the report seven years on, there is a widespread feeling that the institutional changes put forward by the Or Commission report have not been wholeheartedly adopted by the Israeli state and it has not worked hard enough to 'wipe out the stain of discrimination against its Arab citizens.' Government inaction has been criticised by several

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<sup>9</sup> Jewish Virtual Library, The Official Summation of the Or Commission Report, September 2003, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/OrCommissionReport.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/OrCommissionReport.html) (accessed September 2010)



members of the Commission including Judge Hashim Khatib<sup>10</sup> and Justice Theodore Or himself<sup>11</sup>. Speaking a year on from the report's publication Or was critical about the state's response to the report and made a strong argument in favour of positive discrimination in the allocation of funding:

*The principle of equality obliges an allocation of distributable resources according to egalitarian principles. This means that generally, wherever budgetary constraints prevent an increased allocation for parties who previously suffered from discrimination, existing resources must be re-allocated in an equitable manner. In other words, it will be necessary to reduce the allocation of the sector that received more than the other sector in the past, and correspondingly increase the allocation to the deprived sector. In our context, this implies a reduction in the budget to the Jewish sector in order to advance the equality of the Arab sector<sup>12</sup>.*

Furthermore, the decision in 2008 to close the court cases against the police officers accused of causing the deaths of the protestors,<sup>13</sup> undermined the faith of the Arab community in the ability of the state to redress its own errors. While the publication of the Or Commission report was a significant moment in the state's relationship with its Arab community, its inability to implement many of the report's findings represents a huge missed opportunity.

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<sup>10</sup> Judge Hashim Khatib, The Arabs in Israel - Three Years after the Or Commission Report, Tel-Aviv University & Konrad Adenauer Foundation. <http://www.orwatch.org/deot-en/KhatibEng.pdf> (accessed November 23rd 2010)

<sup>11</sup> Ynet News, 'October Riots report ignored', June 2005, <http://www.ynet.co.il/english/articles/0,7340,L-3101970,00.html> (Accessed 14<sup>th</sup> June 2010)

<sup>12</sup> Judge Theodore Or, A Year to the State Investigative Commission on the October 2000 Events The Konrad Adenauer Program for Jewish-Arab Cooperation, 2004 via <http://www.orwatch.org/doc-en/OrEng.pdf> (accessed December 13th 2010)

<sup>13</sup> Avriam Zino, Mazuz will not indict police officers involved in October 2000 riots, Ynet, January 2008 <http://www.ynetnews.com/articles/0,7340,L-3499341,00.html> (accessed 23<sup>rd</sup> November 2010)

## **A home in Israel: Divided communities and discriminatory practices**

In the majority of cases, the members of Israel's Arab community live in the same areas that their forefathers had lived prior to 1948, living separate domestic lives to Israel's Jewish community. The majority therefore live in small, Arab-only villages, for Arab-Palestinian Citizens mainly in the North and the 'triangle' area, Bedouin mostly in southern Israel, particularly the Negev desert and the Druze community mostly in the North. Just under 400,000 live in Urban Municipalities such as Nazareth, Umm Al Faham and Rahat<sup>14</sup>. Arab municipalities control only 2.5% of the overall land area within Israel<sup>15</sup>.

According to Dr. Eli Reches of Tel Aviv University, only around 120,000 people, about 10% of the country's Arab minority population,<sup>16</sup> live in what are termed 'mixed cities', including Tel Aviv-Jaffa, Haifa, Acre, Ramala, Lod, Ma'alot-Tarshiha and Nazaeret-Illit. The term 'mixed' however refers to both communities falling within the same municipal area, rather than necessarily the communities being intermixed<sup>17</sup>. While Haifa is an oft-cited example of communities living together, in some cases the communities in these cities live parallel and often unequal lives. Within these mixed cities there are practices that tend to discriminate against Arab communities such as tax checks on families applying for nursery places for their children that do not apply to the Jewish community in Lod, no Arabic speakers employed in the welfare division in Ramla and only 4% of the division in Lod. The Economist<sup>18</sup> recently highlighted the non-mixing of Lod's communities, the failure to provide municipal services to the sections of the city inhabited by Arab-Palestinian

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<sup>14</sup> The Arab Centre for Alternative Planning, Local Arab Municipalities and Towns in Israel, 2008, <http://www.ac-ap.org/files/ACAPmahozot2008ena1.swf> (accessed 23rd November)

<sup>15</sup> Adalah, The Rights of Palestinian Arab Citizens of Israel, October 2010

<sup>16</sup> Rebecca Anna Stoil, Jerusalem Post, Knesset urged to aid 'volatile' mixed Jewish-Arab cities <http://www.jpost.com/Home/Article.aspx?id=106184> (accessed November 23<sup>rd</sup> 2010)

<sup>17</sup> A critique that can indeed be levelled at certain areas of British urban centres, however critically without the role of government policy in deciding where communities live.

<sup>18</sup> Economist, October 16<sup>th</sup> 2010, Pulled Apart, p63-64

Citizens of Israel, and the use, as assessed later in the report, of the planning system to restrict the growth and development of Arab housing.

According to a 2008 survey by Professor Faisal Azaiza and Professor Rachel Hertz Lazarowitz of Haifa University, while 75% of Israel's Arab community were in favour of living in mixed neighbourhoods, only 52% of Jews<sup>19</sup> would be willing to do the same. Similarly, the results of a 2006 poll by the Center for the Struggle Against Racism which found that 68% of Jews would not live in the same building as an Arab and 41% would support segregation in public spaces used for recreation<sup>20</sup>. Dr Sammy Smooha's work<sup>21</sup> on Jewish and Arab attitudes showed that in 2009, 43% of the Arab population were not ready to have a Jewish neighbour, while 50.7% of Jews were not ready to have an Arab neighbour. Adding further fuel to the fire, at time of writing a group of 39 municipally employed Rabbi's have published an incendiary letter calling for Jews not to rent homes to gentiles. While this move has generated condemnation from across Israeli society, including the Prime Minister, there has been criticism of the timid nature of institutional response, with the Civil Service Commission arguing that although these Rabbi's are employed by local municipalities their employment is managed through religious authorities restricting their ability to act<sup>22</sup>.

Nevertheless the Abraham Fund's research has identified that increasing numbers of Arab-Palestinian citizens of Israel are moving to mixed cities,

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<sup>19</sup> Fadi Eyadat, Haaretz, Survey: Jewish population objects to Arab neighbors  
<http://www.haaretz.com/print-edition/news/survey-jewish-population-objects-to-arab-neighbors-1.241231> (accessed 23rd November 2010)

<sup>20</sup> Jack Khoury et al, Haaretz, Poll: 68% of Jews would refuse to live in same building as an Arab  
<http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=697458&contrassID=1&subContrassID=7> (accessed November 23<sup>rd</sup> 2010)

<sup>21</sup> Prof Sammy Smooha, Arab-Jewish Relations in Israel: Alienation and Rapproachment  
[http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67\\_Smooha\\_1a.pdf](http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67_Smooha_1a.pdf) (accessed November 23<sup>rd</sup> 2010)

<sup>22</sup> Jack Khoury, 39 municipal rabbi's issue ruling against renting homes to non Jews,  
<http://www.haaretz.com/print-edition/news/39-municipal-rabbis-issue-ruling-against-renting-homes-to-non-jews-pm-ministers-up-in-arms-1.329411> (accessed December 13<sup>th</sup> 2010)

primarily due to the lack of appropriate housing of a suitable size in their hometowns<sup>23</sup>.

## **Access to land**

At the heart of many of the problems facing Israel's Arab community is the unequal access to land, housing and planning permission. As a result, Israel's Arab communities find themselves facing overcrowding, substandard housing and insecurity of title as many Arab majority towns and villages have not been able to expand or develop as Jewish areas have had the opportunity to do since Israel's foundation. These failings were noted in the Or Commission Report<sup>24</sup> that stated:

*'In the matter of land, the committee determined that it is the state's obligation to act toward its Arab citizens with equality and justice with regard to land use. The Arab sector has legitimate needs that stem from natural growth, among other things. The state must allocate land to this sector according to the same egalitarian principles it uses with other sectors. The committee added that suitable planning should be carried out as soon as possible to prevent illegal construction caused by lack of existing town planning that make it difficult to obtain a building permit. In this regard, the committee noted that a real response must be made by the government to the issue of the destruction of houses and the expropriation of land. On the other hand, wherever a way cannot be found to legalize existing construction, the law must be enforced unstintingly.'*

Over 93% of the country's land is currently managed by the Israeli Lands Administration (ILA), comprising state land, Jewish National Fund (JNF)-

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<sup>23</sup> Amnon Beeri-Sulitzeanu and Uri Gopher, The Abraham Fund Initiatives, Mixed Cities and Regions: The Future Face of Israel, [http://www.abrahamfund.org/img/upload/0/0\\_2873.pdf](http://www.abrahamfund.org/img/upload/0/0_2873.pdf) (accessed November 23<sup>rd</sup> 2010)

<sup>24</sup> Jewish Virtual Library, The Official Summation of the Or Commission Report, September 2003, [http://www.jewishvirtuallibrary.org/jsource/Society\\_&\\_Culture/OrCommissionReport.html](http://www.jewishvirtuallibrary.org/jsource/Society_&_Culture/OrCommissionReport.html) (accessed September 2010)

owned land and land owned by the Israeli Development Authority. Israel's Arab community are disproportionately likely to own their own land, rather than lease it from the state given that in many cases their communities predated the creation of the state and its approach to land management.

The role of the JNF in the management of land on behalf of the state through the ILA is the source of significant problems for Israel's Arab community. Founded in 1901 as an international Jewish community body tasked with purchasing land in then Ottoman Palestine through funds received in charitable donations, it currently owns 13% of land in Israel, nominating up to 6 directors of the ILA<sup>25</sup> and manages a number of major environmental projects throughout Israel. The JNF's explicit provision that their holdings are solely for Jewish use is highly problematic, particularly given the amount of land involved and its formal integration into state structures. The land use policies pursued by the ILA have not only severely restricted the expansion of the Arab villages that existed prior to 1948, but they have also restricted the opportunity for inter-communal residential mixing. The land distribution policy of the ILA, the relationship between the ILA and the JNF, and the role of the Jewish Agency in the development of ILA-controlled land, has been challenged in two key court cases.

In 1994<sup>26</sup> the Kaadans, a family of Arab-Palestinian Citizens of Israel from Baqa El Gharbiya, were rejected in their attempts to lease ILA land on which to build a property in the Jewish Agency Development of Katzir<sup>27</sup>.

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<sup>25</sup> Adalah, New Discriminatory Laws and Bills in Israel, November 2010<sup>th</sup>, <http://www.adalah.org/newsletter/eng/nov10/docs/ndl.doc>. (accessed 23<sup>rd</sup> November 2010). This is down from 10 under its former structure, however only 2 of these posts are currently filled due to wider issues between the JNF and ILA

<sup>26</sup> There is some confusion amongst sources about whether the situation began in 1994 or 1995. At a best guess the application to lease may have taken place in 1994 and the case submitted in 1995.

<sup>27</sup> UK Friends of the Abraham Fund Initiative s, The Kaadan family to begin building their home in Katzir <http://tafiuk.wordpress.com/2007/08/14/the-kaadan-family-to-begin-building-their-home-in-katzir/> (accessed 23<sup>rd</sup> November 2010)

After a long and drawn-out legal process supported by the Association for Civil Rights in Israel (ACRI), the Supreme Court ruled that they had been subject to discrimination and set the precedent that the ILA should not discriminate in the allocation of state land on grounds of ethnicity. In a 2004-2007 case, the role of the JNF was addressed directly, with the Supreme Court making an interim decision that discrimination against Arabs in bidding for JNF land<sup>28</sup> was illegal, with a temporary reintroduction of land swaps between the state and the JNF proposed as a mechanism to ensure the JNF<sup>29</sup> maintained the overall level of land available for Jewish use, while enabling the ILA not to discriminate in its marketing and registration of land to the public. It is imperative that the ILA begins to adequately release land for development in predominantly Arab areas and allows equal access to the entire portfolio it manages.

## **Catch 22: The Israeli planning system**

Failures in planning policy play an equally important role in the current housing crisis. In many towns or areas with a predominantly Arab-Palestinian or Bedouin population, town plans either do not exist, are out of date or are otherwise unable to 'meet the basic housing needs of the local population.'<sup>30</sup> However, unless land appears in an approved city plan, it is impossible for planning consent to be given and construction permits issued. As a result, these communities respond with unlicensed building and expansion of existing properties, in order to meet the needs of a population that has grown dramatically since the creation of Israel and its planning system, that are illegal under the 1965 Planning and Construction Law, making them liable for criminal proceedings including demolition.

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<sup>28</sup> ACRI, High Court to Deliberate on JNF's Discriminatory Land Policy <http://www.acri.org.il/eng/Story.aspx?id=395> (accessed 24<sup>th</sup> November 2010)

<sup>29</sup> It is worth noting that in 2007 the first representative of Israel's Arab community on the board of directors of the Jewish National Fund, Ra'adi Sfori, was elected within the Meretz faction representation.

<sup>30</sup> ACRI Real Estate or Rights: Housing Rights and Government Policy in Israel, July 2008, <http://www.acri.org.il/pdf/DiurEng.pdf>, (Accessed 23<sup>rd</sup> November 2010)

Much international attention has understandably been focused on the challenges facing the Bedouin in the Negev, where many settlements of this mostly now settled community were not included in the national master plans of the 1960s.<sup>31</sup> Bimkom put the number of unrecognised villages at 36, home to around a third of the area's Bedouin population, facing a significant programme of demolition<sup>32</sup>, with the town of al-Arakib recently removed. However, it is not only in the Negev that whole communities are unrecognised, with the town of Dahmash<sup>33</sup> near Ramla also recently gaining international attention.

There is widespread feeling that the 'zoning' system inhibits the development of Arab-Palestinian communities, both where the type of zone designated does not tally with existing or suitable future land use, as in the above case of Dahmash where residential land is specified for agricultural use, and in the distribution of industrial zones that help drive local economic development and therefore local tax revenue<sup>34</sup>. As with the other areas of Israeli civic life, members of the Arab community are not adequately represented on planning committees. For example in the Northern District planning committee, where Arab communities make up almost half the population, only two out of the 18 members of the planning committee are from this population<sup>35</sup>.

Progress at rectifying the problems in the planning system identified by the Or Commission and others has been excruciatingly slow. Indeed,

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<sup>31</sup> Human Rights Watch, Off the Map, March 2008,

<http://www.hrw.org/en/reports/2008/03/30/map-0> (accessed 23<sup>rd</sup> November 2010)

<sup>32</sup> <http://eng.bimkom.org/Index.asp?CategoryID=96>

<sup>33</sup> Human Rights Watch, Israel: Grant Status Long Denied to Arab Village in Central Israel, October 2010, <http://www.hrw.org/en/news/2010/10/08/israel-grant-status-long-denied-arab-village-central-israel> (Accessed 23<sup>rd</sup> November 2010)

<sup>34</sup> The most regularly cited example is that of the Arab-Palestinian city of Naasira (Nazereth) and the Jewish dominated mixed town of Natrat-Ilit (over 90% Jewish population but municipal area covers some arab areas). Despite being larger the former has no industrial zones while the latter has three.

<sup>35</sup> The Arab Centre for Alternative Planning, 2007 Annual Narrative Report, <http://www.ac-ap.org/files/2007ACAPAnnualReport.pdf> (accessed November 23<sup>rd</sup> 2010)

house demolition is believed to have been on the increase in 2010<sup>36</sup>. In 1999, the Government proposed creating new master plans for 36 towns and villages inhabited by Israel's Arab minority communities, a programme that has stalled in recent years. Slow progress has led to large underspends (only 21% of the Interior Ministry funds for planning in the Arab sector where actually spent in 2008<sup>37</sup>) and eventual cuts to the budget available to deliver the project. Mossawa also identified that Arab minority communities are allocated less than 1% of the ILA's planning and development budget, and only just over 50% was actually spent.

While many new towns have been created for Israel's Jewish community, the only settlements authorised for members of Israel's Arab community were the seven townships, including the Bedouin city of Rahat, in the Negev, themselves highly controversial given issues around removing the Bedouin from their original land. In recent years, there have been announcements from the Interior Ministry about proposals to create a new Arab City in the Galilee near Judeida Makr, however it is difficult to identify signs of significant progress towards its creation.

One of many contentious items of legislation making its way through the Knesset's autumn session is the bill to allow local acceptance committees to make selection on the grounds of 'social suitability' to membership of Israel's collective villages<sup>38</sup>, from the traditional *Kibbutzim* to the more open *moshavim* and *yishuvel kehillati*. While to some extent this bill would formalise existing practice in some collectives, it is seen as an attempt to head off a Supreme Court challenge to the decision of the Rakefet Moshav to reject an Arab couple attempting to join on the grounds that they were

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<sup>36</sup> In conversation with Aida Touma-Sliman.

<sup>37</sup> One Year for Israel's New Government and the Arab Minority in Israel , Mossawa, April 2010 <http://mossawa.org/files/files/File/Reports/2010/Netanyahu%20Final.pdf> (accessed 1<sup>st</sup> December 2010)

<sup>38</sup> Nathan Jeffray, Forward 'Social Suitability' Nears OK As Israeli Housing Criterion [http://www.forward.com/articles/133046/?utm\\_medium=email&utm\\_source=Emailmarketingsoftware&utm\\_content=70949282&utm\\_campaign=Nov192010&utm\\_term=ReadMore](http://www.forward.com/articles/133046/?utm_medium=email&utm_source=Emailmarketingsoftware&utm_content=70949282&utm_campaign=Nov192010&utm_term=ReadMore) (accessed November 24<sup>th</sup> 2010)



unsuitable. While the bill has formal provisions against discrimination, advocacy organisations fear that the broad definition of suitability will give greater scope for discrimination against Arab citizens. Meretz's Chaim Oron described it as a 'dark law that tries to discriminate against citizens on the basis of their origin.' At time of writing Knesset Speaker Reuven Rivlin has prevented the bill from going to a vote in order to push for amendments that would limit its application to communities of 500 in the wake of protests. Certainly the difficulty in policing the anti-discrimination provisions and concerns over the appropriateness of such mechanisms when state land is involved should give legislators grounds to reassess the suitability of such legislation.

Legal work needs also to be conducted both within Israel's Arab community and with the government to formalise ownership arrangements in cases where informal agreements currently exist, on the broad basis of granting title to occupants in cases where there is no outstanding dispute. If combined with efforts to formalise the planning environment, such measures could enable access to mainstream sources of credit and investment.

### **Public housing in Israel**

The provision of public housing is on the decline in many countries across the developed world, the UK being a case in point. In Israel, ACRI<sup>39</sup> have argued that 'Public housing is now in the process of disappearing. The state continues to sell public housing apartments to the tenants who lived in them, but has completely stopped building new public housing'. This 'right to buy' scheme has played an important role in reducing the amount of public housing from around 206,000 units in the late 1960s (23% of overall housing stock) to around 70,000 units (2% of total housing)<sup>40</sup>.

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<sup>39</sup> ACRI Real Estate or Rights: Housing Rights and Government Policy in Israel, July 2008, <http://www.acri.org.il/pdf/DiurEng.pdf> (accessed November 23rd 2010)

<sup>40</sup> Reduction through 'right to buy' contributed to the sale of around 30,000 properties with the further reductions due to natural wastage and redevelopment.

Furthermore, ACRI argue that vagueness in housing law means that there is no official requirement on the state to house its citizens and that in 2007 there were only 1,628 apartments available, often in the peripheral areas of the country, compared to a waiting list of 50,000. Instead, the state is increasingly subsidising the private rental market, supporting 140,000 families in a mechanism similar to the Local Housing Allowance component of UK Housing Benefit. However, with legal building restricted and traditional dwellings held in private family ownership, Israel's Arab community struggles to utilise state assistance with private rents as they do not get access to rental properties in the private sector.

What remains of Israel's social housing sector is led by a small number of providers. Amidar (Israel National Housing Company Ltd), Israel's largest social housing provider, is nationally supported by the Ministry of Housing in conjunction with the Jewish Agency and Jewish National Fund and it has some coverage in Arab villages and mixed communities<sup>41</sup>. The second largest provider is Amigur, a direct subsidiary of the Jewish Agency which, as a result, doesn't offer housing for Israel's Arab community. Other smaller organisations exist as companies controlled in partnership with the local municipalities. Sikkuy point out that in 2007-08, while 21.9% of housing for the Jewish Community was initiated in the public sector (in part through schemes akin to UK shared ownership) only 1.8% of Arab housing was the result of public or municipal action<sup>42</sup>. Given the relative lack of support for Arab families through rent support, it is even more important that these figures are reversed.

### **Case study: Jaffa**

As with many historic yet slightly shop-worn districts in cities around the globe, the historic old city of Jaffa, home to 16,000 Arab citizens, is under the predatory gaze of property developers seeking to gentrify the district

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<sup>41</sup> Israeli housing expert Guy Doron estimated that less than 5% of Amidar residents were Arab

<sup>42</sup> Ali Haider, Equality Index 2008, Sikkuy

[http://www.sikkuy.org.il/english/en2008/ei\\_report\\_2008.pdf](http://www.sikkuy.org.il/english/en2008/ei_report_2008.pdf) (accessed November 1st 2010)

by creating gated communities for wealthy outsiders amid the area's traditional charms. The local municipality is charged with complicity<sup>43</sup> in a process that in effect is pushing traditional (Arab) residents out in favour of richer (Jewish) newcomers as development has pushed up prices without an alternative plan to provide affordable housing.

ACRI accuse the municipality, the ILA and public housing provider Amidar of collusion in the eviction of hundreds of residents using retrospective enforcement of planning violations, where residents had made unagreed improvements to their properties where the state had been unwilling to provide planning permission, and demands for rent arrears. Amidar is choosing predominantly to enforce eviction and demolition rather than to negotiate a resolution. This has led to 497 families facing eviction as of 2007,<sup>44</sup> with estimates of up to 3,000 families being affected if the policy is fully enacted. It is argued that this dramatic shift in policy is due to a desire to encourage demolition to allow for higher value properties to be developed in their place, changing the character of Jaffa and using planning policy to implicitly discriminate against the area's traditional Arab residents.

### **Municipalities and economic inequalities**

Across the country there is widespread imbalance in the distribution of public funds between different types of community but this differential is at its most stark between the Jewish and Arab communities. Sikkuy have calculated that there was a 32% discrepancy between overall government social welfare spending on Jewish and Arab citizens in favour of the former.<sup>45</sup> This is highlighted in the fact that just over twice as many

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<sup>43</sup> By ACRI *ibid* and in conversation with Dr Guy Doron and others.

<sup>44</sup> The Arab Association for Human Rights, Unprotected Citizens, <http://www.arabhra.org/Hra/SecondaryArticles/SecondaryArticlePage.aspx?Language=2&SecondaryArticle=1670> (accessed November 25<sup>th</sup> 2010)

<sup>45</sup> Ali Haider, Equality Index 2008, Sikkuy [http://www.sikkuy.org.il/english/en2008/ei\\_report\\_2008.pdf](http://www.sikkuy.org.il/english/en2008/ei_report_2008.pdf) (accessed November 1st 2010)

members of Israel's Arab community are below the poverty line as Jews before the provision of welfare payments than Jews (60.4%: 26.9%) the gap widens to over three times once transfer payment been made (54%:16.5%). While the block grant allocated to local councils from the Ministry of Internal Affairs is provided equally between communities, it is in the area of discretionary funding where Arab communities lose out in the provision of new infrastructure and projects such schools. Mossawa argue that Arab communities are in receipt of less than 5% of the discretionary funding provided through the state development budget.<sup>46</sup>

While some of these huge disparities are linked to the problems caused by the unplanned nature of many Arab-Palestinian and Bedouin areas making capital investment difficult (still of course the responsibility of the government to resolve), it is clearly also an indicator of government priorities. Indeed, planning problems mean that local municipalities are often either unable or unwilling to provide basic services to properties that fall outside official documents. This was exemplified by the fact that only 40% of Arab towns have an effectively functioning sewage system in 2006, leading to an €18 million loan from the European Investment Bank to help rectify the problem.<sup>47</sup>

With a history of underdevelopment and with cases of poorly developed tax collection mechanisms, Arab councils often struggle to raise funds locally. This not only inhibits the services they can offer but means that they are often unable to provide the required part-contribution required to enable central government money to be provided, strengthening a vicious circle of local authority poverty. This is the case in the area of welfare services, most notably for social workers, as Israeli local

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<sup>46</sup> One Year for Israel's New Government and the Arab Minority in Israel , Mossawa, April 2010 <http://mossawa.org/files/files/File/Reports/2010/Netanyahu%20Final.pdf> (accessed 1<sup>st</sup> December 2010)

<sup>47</sup> Judge Hashim Khatib, The Arabs in Israel - Three Years after the Or Commission Report, Tel-Aviv University & Konrad Adenauer Foundation. <http://www.orwatch.org/deot-en/KhatibEng.pdf> (accessed November 23rd 2010)

municipalities are required to match central government funding of 75% with 25% from their own funds. According to a doctoral study by Rafik Haj<sup>48</sup> from Ben-Gurion University of the Negev tax evasion runs at about 60% within the Arab population, with only 18.6% of the population fully up to date on their payments, compared to 53.7% of the Jewish population. Haj argued that the cause of the low payment rate was the low socio-economic status of the Arab community overall, as tax collection rates amongst high socio-economic groups within both communities were equally high, while there was only a small collection gap between low socio-economic groups in both communities. He also argued that greater levels of perceived inefficiency and graft in Arab municipalities lowered payment rates.

The Authority for the Economic Development of the Arab, Druze and Circassian Sectors based in the Prime Minister's office has the potential to play a useful role. While it's direct funding for projects, notably local employment, micro-finances and private sector development, totals only 20 million shekels (£3.49 million) it is coordinating an 800 million shekel (£140 million) new scheme of development for 13 'Arab towns' to be delivered between 2010-15, with projects including a new industrial zone in Um el-Fahm and 1,600 new housing units in Sakhnin underway. Its director Iman Saif argues that up to 80% of this counts as new funding, with 415 million direct from the ministry of finance and leveraging increased contributions from other government departments, although some NGOs have expressed scepticism over the newness of the funding and that it forms only a small proportion of the annual development budget 13 billion Shekels (65 billion over the project period- £11.6 billion). The Authority has also developed a private equity fund with 80 million shekels of government funding matched by 100 million of private sector finances to be invested into businesses in Israel's Arab minority communities. The Minister of Minorities controls a further 35 million

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48 Ynet newsStudy: Arabs evade tax payment due to poverty October 2009  
<http://www.ynet.co.il/english/articles/0,7340,L-3790188,00.html> (Accessed 23<sup>rd</sup> November 2010)

Shekels (£6.13 million, 2011/12) to support a number of specific local projects.

## Employment

Inequality in the world of work is at the heart of the economic disparity between the two communities. The stark difference can be seen in the differences in average annual salary. Estimates of average earnings amongst Israel's Arab community range between 57%<sup>49</sup> and 70%<sup>50</sup> of the average salaries of Jewish households, depending on the source, with the Central Bureau of Statistics giving a 2008 figure of 61%, down from 69% in 2003<sup>51</sup>. Sikkuy's 2008 figures show that Arab male unemployment was running at just under two percent higher than amongst the Jewish community (10.3% compared to 8.2%), with women's unemployment notably higher at 14% compared to 9.6% in the Jewish community<sup>52</sup>. One of the key components in the wage differential is the nature of employment, with the majority of the Arab community (55.4%) engaged in manual labour compared to only 23.3% of the Jewish community. Surveys have also shown employer resistance to hiring Arab workers with a Kiryat Ono study suggesting that 83% of respondents would be unwilling to hire a member of the Arab community without a degree<sup>53</sup>. Comparatively low

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49 Communal Obstacles for Integration of Arab Sector, November 2008 <http://www.reut-institute.org/Publication.aspx?PublicationId=3473> (November 23<sup>rd</sup> 2010)

<sup>50</sup> Sikkuy, The Equality Index of Jewish and Arab Citizens in Israel *ibid*.

<sup>51</sup> Central Bureau of Statistics- State of Israel, The Arab Population in Israel 2008

[http://www1.cbs.gov.il/www/statistical/arab\\_pop08e.pdf](http://www1.cbs.gov.il/www/statistical/arab_pop08e.pdf) (accessed November 17th 2010)

<sup>52</sup> It is important to note that Israel is certainly not alone in having a gap. While the figures are not directly comparable (i.e. not the unemployment count) UK National Audit Office Date shows 1/3<sup>rd</sup> of working age members of British ethnic minorities are neither working or actively seeking work, compared to 21% of the overall population.

[http://www.nao.org.uk/publications/0708/increasing\\_employment\\_rates\\_fo.aspx](http://www.nao.org.uk/publications/0708/increasing_employment_rates_fo.aspx) (Accessed November 23<sup>rd</sup> 2010)

<sup>53</sup> Dana Weiler-Polak, Haaretz, Study: Israeli employers prefer not to hire Arabs, November 2009 <http://www.haaretz.com/news/study-israeli-employers-prefer-not-to-hire-arabs-1.4493> (accessed November 23<sup>rd</sup> 2010)

levels of education and much lower investment, both public and private, into Arab communities are at the heart of the problem.

Business development in the Arab community is hamstrung not only by the relative poverty of the areas but again by the lack of planning. Firstly, as the Reut Institute point out<sup>54</sup>, Arab businesses often initially receive their start-up capital through undocumented means through the Hamula or extended clan system which creates difficulties in accessing credit through the formal banking sector. Secondly, the log-jams identified in the planning system make building new premises or renovating existing structures extremely difficult within the letter of the law and therefore to be funded through mainstream financial capital. Indeed, with many existing properties developed without formal planning consent, for Arab areas without master plans and issues over property title it can be extremely difficult to attract appropriate levels of investment to support existing businesses.

### **Employment in the civil service**

The significant under-employment of members of the Arab communities in Israel's public sector has been a longstanding area of concern. At the time of a major initiative in January 2004 by the Ministerial Committee for Arab Affairs to rectify the situation, '3,153 Arabs were employed in the Civil Service, 5.5% of the total number of 56,914 civil servants' and 90.3% of them were employed by just 6 ministries, with 56% in the health ministry, including hospital staff.<sup>55</sup> Furthermore, Ali Haider argued that they were employed in auxiliary and other low grade positions, mainly in their area of residence, or in jobs that can only be filled by Arab citizens. An examination of the data indicates that members of Israel's Arab

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<sup>54</sup> Reut Institute Communal Obstacles for the Integration of the Arab sector <http://www.reut-institute.org/en/Publication.aspx?PublicationId=3473>, November 2008. (accessed November 23<sup>rd</sup> 2010)

<sup>55</sup> The representation of Arab Citizens in the Civil Service, Government corporations and local government by Ali Haider, The Sikkuy Report 2004-2005.

community employed in the civil service are 'mainly responsible for providing health, welfare, religious and education services, and they are absent from senior policy-making positions.'

The Ministerial Committee made a number of commitments in response to these findings. Firstly, 'that within three years of this decision, at least 8% of civil servants will be from the non-Jewish population - that is: Bedouins, Druze, Circassians and Arabs - and within five years of this decision, at least 10% of civil servants will be from the non-Jewish population.' To achieve this, they aimed to increase the proportion of non-Jews to 8% of new recruits in 2004 and to 15% in the subsequent years and that the goal would apply to all ministries and agencies. Haider showed that the first year's target was missed, with only 5.3% of new employees in 2004 being drawn from outside the Jewish Community. By November 2007, the government admitted defeat, extending the deadline for reaching the 10% goal to the end of 2012<sup>56</sup>. While by 2009 the proportion had reached 7%, meeting the target is a tall order, particularly given the current restrictions on general public sector recruitment.<sup>57</sup>

In May 2000 an amendment was made to the 1975 Government Corporations Law (Government Companies Law Amendment 11, page 207) to direct that the composition of a government company's board of directors would give suitable expression to the representation of the Arab population. This was followed by a directive of the ministerial committee on Arab affairs that there would be at least one 'Arab' on each of the 105 government boards of directors by August 2004. As of 2009, only 47 members of Israel's Arab community serve on Israel's government boards, 7.98% of the overall number of board members. While a notable increase on the 1.2% of board members serving when the amendment was

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<sup>56</sup> Ali Haider, Equality Index 2008, Sikkuy  
[http://www.sikkuy.org.il/english/en2008/ei\\_report\\_2008.pdf](http://www.sikkuy.org.il/english/en2008/ei_report_2008.pdf) (accessed November 1st 2010)

<sup>57</sup> Figures provided by Yaser Awad of Sikkuy



introduced, the proportion actually peaked at 9.75% in 2006 and has since been in decline<sup>58</sup>.

While delivering change in the private sector to achieve equitable recruitment and break the glass ceiling on Arab advancement will be a long-term challenge, the failure of the government to meet even the modest goals it has set itself in terms of public sector recruitment does not send a positive message to either the wider economy or the Arab community.

### **Anti-discrimination law in Israel**

Although a new raft of discriminatory legislation continues threaten from the Knesset, the existing overarching legal environment towards Israel's Arab community is relatively benign. They are protected by two major pieces of legislation: firstly, the 1988 Employment (Equal Opportunities) Act<sup>59</sup> which prohibits discrimination in the workplace on a range of different criteria that most pertinently include race, religion and reservist duty, violation of which can be both a civil and criminal offence. Importantly, it also makes two points where there is potential for contradiction, that: *'setting extraneous conditions is also deemed to constitute discrimination'* but also that *'anything required by the character or substance of the position or job shall not be deemed discriminatory.'* The tension between these two criteria can be seen in contentious cases including the railway workers.

The second major piece of legislation is the 2000 Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Act<sup>60</sup> that seeks to prohibit discrimination

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<sup>58</sup> Awad ibid

<sup>59</sup> Ministry of Industry, Trade and Labor, Equal Opportunities Act 1988, <http://www.tamas.gov.il/NR/exeres/82CF3999-915B-4D33-BE32-48D61416302D.htm> (Hebrew) (accessed November 23<sup>rd</sup> 2010)

<sup>60</sup> <http://www.tamas.gov.il/NR/exeres/A4587F25-5F3F-4FBA-8A90-818960801A9E.htm>

in the provision of products or services, again on grounds that cover race and religion, amongst the other categories. As with so many things, the legal framework is not the problem per se, it is the gap between legislation and implementation, how the public and private bureaucracies work, that shapes the everyday lives of Israel's Arab community. It is a gap that many Israeli NGOs work to fill, but until 2008 the state failed to provide a mechanism to oversee enforcement.

### **Equal Employment Opportunities Commission (EEOC)**

The recent development that has perhaps the most potential to transform the lives of Israel's Arab community is the creation of the Equal Employment Opportunities Commission (EEOC)<sup>61</sup>. The EEOC was established through enabling legislation in January 2008 due to the inadequate enforcement of equal employment opportunities legislation in Israel. The Commission's stated objective is to battle discrimination in the workplace and promote equality on the basis of age, sexual orientation, religion, ethnic origin, reserve duty in the army, gender and parental status. The commission's creation has its roots both in the 2003 EU-Israel Neighborhood Plan and in the campaigning work of its founding Commissioner Tziona Koenig-Yair. Existing as an independent government unit based within the structures of the Ministry of Industry, Trade and Labour (MOITAL), it has 8 staff, including three regional commissioners based externally, one of whom is Mariam Kabah, a lawyer and Arab-Palestinian Citizen of Israel. Although in its infancy, the Commission is known to have the support of the departmental minister Binyamin Ben-Eliezer.

The EEOC operates primarily by means of taking up, or providing expert support to, test cases where it believes discrimination under existing legislation to have taken place. For example, the 2009 case of Adbul Karim against the Israeli Railway Authority following the dismissal of around 150

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<sup>61</sup> EEOC webpage <http://www.moital.gov.il/CmsTamat/Rsrc/Shivyon/Shivyon.html> (Hebrew)

Arab-Palestinian citizens of Israel employed as crossing guards as the result of an attempt to restrict the posts to employees who have firearms permits, therefore requiring them to have done military service. The Labor Court adopted the EEOC's legal opinion that 'requiring military service as a mandatory condition is discriminatory unless proven that the experience is essential to the specific job.'<sup>62</sup>

With the support of the EU, the Equality Commission for Northern Ireland (NIEC) is running a twinning project to aid the development of the EEOC, led by its Chief Executive Evelyn Collins and coordinated on the ground by the former head of the UK disability rights commission Bob Niven, to help it in four key areas: the development and implementation of equality agreements with Israeli employers including removing community identifiers from job application forms; the creation and maintenance of databases of relevant case law; the delivery of an awareness-raising and communications strategy for the EEOC; and the development of the forward work plan for 2012 at the end of the current twinning arrangement. The NI EC is also helping to set up and develop stakeholder group that help advise the EEOC on its work.

There would seem to be three principle interconnected challenges that need to be met in order to turn this positive project into the transformative, dynamic official equalities body that Israel's Arab Community desperately need in their corner: capacity, credibility and independence.

Although very much in its infancy, the EEOC will need to expand dramatically in order to make the level of societal impact needed. For example, in 2009-10 the Equality Commission for Northern Ireland (NIEC), had a staff of 131<sup>63</sup> to serve a community of 1.8 million<sup>64</sup> people, a quarter

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<sup>62</sup> Tzonia Koenig-Yair, Adv. Ethnic and Nationality Based Discrimination in Israel, EEOC, April 2010

<sup>63</sup> Equality Commission for Northern Ireland, Annual Report and Accounts 2009-10  
<http://www.equalityni.org/archive/pdf/ECNIAnnualReportF0910.pdf> (accessed November 23rd)

<sup>64</sup> BBC News, NI population to top 1.8m in 2010

the size of the Israeli population. At less than a 16<sup>th</sup> of its size coping with a larger population the EEOC needs to grow but it is hamstrung by civil service bureaucracy. While its budget is sufficient in the short-term, indeed it has recently been awarded 4 million shekels for outsourced legal and IT services, it is restricted from expanding its staff team due to complications related to taking on additional civil servants<sup>65</sup>. Breaking this staffing impasse is critical to the long-term future of the organisation. It will require leadership from the Ministry of Finance and MOITAL to commit to the future success of the organisation and enable it to recruit more staff.

Since its foundation the EEOC has taken on 4 cases that relate to discrimination against Israel's Arab community out of a total 17 that it has taken forward. There remains a significant amount of work to be done to convince the Arab communities that the EEOC is able to adequately address their many concerns. Although not amongst the three initial priority areas of action, the EEOC has designated discrimination against the Arab community as one of its three areas of focus for 2011 and beyond, something that should be warmly welcomed. The EEOC's home as a unit of MOITAL gives it access to the support services provided by the ministry and helps to give it official clout in its dealings with other government agencies. However this institutional leverage comes at the price of perceived lack of independence from government that needs to be rectified in order to engage those in the Arab minority communities who have least faith in the government. The EEOC has a goal of moving towards independence within two years, something that will clearly assist its credibility in the eyes of the Arab community.

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[http://news.bbc.co.uk/1/hi/northern\\_ireland/8318038.stm](http://news.bbc.co.uk/1/hi/northern_ireland/8318038.stm) (accessed November 23rd)

<sup>65</sup> It has been argued to the author that there is significant underemployment of Israel civil servants. Civil Service Commission rules make it very difficult to make them redundant, somewhat analogous to the Police Officers contracts in the UK. Staff working in government departments must be civil servants. Therefore it is proving extremely difficult for the EEOC to take on extra staff when civil service requirement is highly restricted. However they are hopeful that they may be able to add an additional member in the next few months taking their team to 9 members.

The EEOC has enormous potential to put itself at the forefront of driving changes in public attitudes and enforcement of legislation. However, for the foreseeable future, its goal is limited to addressing the many disparities in the world of work. While both sensible in terms of the use of relatively scarce resources and politically expedient, it does leave out other aspects of equality promotion and enforcement that would be recognisable as the role of such bodies in the UK and other countries. Therefore, there is a strong argument for the creation of a parallel official body dedicated to changing wider societal attitudes through a broader range of equality advocacy tools and objectives. Calls for the creation of a human rights commission or similarly titled body have met with stiff political resistance and in the short run many advocacy organisations are understandably focusing on defending the status quo against new efforts to undermine the rights of Israel's Arab community. However, in the longer term such a body could play an important part in that fight so it should continue to be pursued as a goal, whilst also recognising the limited chances of its imminent creation. In the short- to medium-term, a shadow version with a focus on 'expanding resources, networking and education' could be created if the agreement of the majority of organisations already doing work in this area could be achieved. This would expand on the work of the High Follow-Up Committee for Arab citizens of Israel and other umbrella bodies.<sup>66</sup> Ultimately however, the state has a responsibility to advocate for equality between its citizens and must take greater responsibility in this area. Also, the role of the office of the Ombudsman in the State Comptroller's office<sup>67</sup> could be reformed to more effectively provide a dispute investigation and resolution process for members of minority communities making complaints against the actions of state institutions.

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<sup>66</sup>Rebecca Vilkomerson, Public Policy in Divided Societies, Dirasat- The Arab Centre for Law and Policy, June 2008, <http://www.dirasat-aclp.org/research/publicpolicy2008.pdf> (accessed November 23rd 2010)

<sup>67</sup> State Comptroller and Ombudsman: The Ombudsman <http://www.mevaker.gov.il/serve/site/english/eombuds-intro.asp> (accessed 23<sup>rd</sup> November 2010)

Nevertheless, the EEOC provides a positive avenue for progress and its success or failure places the credibility of the Israel state's commitment to equality firmly on the line, not only in relation to its Arab community. It is a project that must not be allowed to fail.

### **Political inclusion**

The position of Israel's Arab community within the Israeli political system is complicated. Arab participation has dropped significantly in recent elections, from 77.6% in 1996 (and from a peak of 91% in 1955)<sup>68</sup> to 53% in 2009<sup>69</sup>. Furthermore, Arab communal support for the mainstream 'Zionist' parties has dropped from 36% in 2003 to 18.1% six years later in an election that gave the 'Arab' parties, United Arab List-Ta'al and Balad (Al-Tajamu), and the non-Zionist predominantly Arab Communist Hadash their best combined showing in Israeli elections.

To put today's situation in context it is worth giving the historical context. Israel's first Knesset elections in 1949, turnout amongst the Arab community was understandably low. However, two Arab MKs, Seif E-Din E-Zoubi and Amin-Salim Jarjora were elected for the Nazareth Democratic Party that was affiliated to the ruling Mapai party and Tawfik Toubi was elected as the sole Arab representative on the list of four MKs from the Israeli Communist Party (Makai). In the 1951 election, Rostam Bastuni was elected as the first Arab MK to sit on the list of a Zionist Party, Mapam (the forerunner of Meretz) while the Democratic List for Israeli Arabs of three MKs entered the Knesset in affiliation with the party.

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<sup>68</sup> Hillel Frisch, The Arab Vote in the Israeli Elections: The Bid for Leadership, Bar-Illan University <http://www.biu.ac.il/Besa/arabvote.pdf> (accessed 23<sup>rd</sup> November 2010)

<sup>69</sup> Prof Sammy Smooha, Arab-Jewish Relations in Israel: Alienation and Rapproachment [http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67\\_Smooha\\_1a.pdf](http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67_Smooha_1a.pdf) (accessed 23<sup>rd</sup> November 2010)

Representation in Government has been sporadic with Abd el-Aziz el-Zoabi from the Alignment chosen as the first Palestinian-Arab deputy minister in the sixth Knesset, holding the health portfolio from 1971 to 1974, and was joined later in 1971 by Jabr Moade (Muadi), a Druze politician who was a member of six parties in his time as an MK, and who served as Deputy Communications Minister then as Deputy Agriculture Minister. Labor's MK Nawaf Masalha served as Deputy Health Minister for the Rabin Government and Deputy Foreign Minister for the Barak Government while Labor Druze MK Salaf Tarif in 2001 became the first non-Jew to hold Cabinet rank as Minister without Portfolio. In 2005, Labor's MK Raleb Majadle was appointed Minister of Science, Culture and Sport, the first time an Arab-Palestinian Citizen of Israel had held cabinet rank, alongside Druze MK Majalli Whbee from Kadima who was a Deputy Minister in the coalition.

The 2009 election marked an important moment in the participation of Arab-Palestinians in Israeli elections. Arab party participation in the election was only made possible after the Israeli Supreme Court overturned a Central Elections Committee ruling banning UAL-Ta'al and Balad. Both UAL-Ta'al and Hadash gained four MKs with Balad gaining three while for the first time since the 80s there were no members of Israel's Arab-Palestinian community representing the mainstream Zionist parties, due to the overall decline in the Labor vote and the placing of the position reserved for the 'Arab sector' at 15<sup>th</sup> on the party list meant that Raleb Majadele lost his seat. However in April 2010 Majadle returned to the Knesset in place of Yuli Tamir and has since served as Deputy Speaker.

This situation highlights the current disconnection between the main political parties and the Arab-Palestinian community over a number of issues, most notably the failure to rectify systemic inequality and the treatment of Palestinians in the West Bank and Gaza. However, marking the somewhat separate nature of the Druze community, in the localities in the northern region which are home to the majority of the population, 82.2% voted for Jewish- Zionist parties (25.3% Labor, 15.9% Kadima and even 13.5% for Yisrael Beitenu) with three of the four Druze MKs sitting

for such parties (one each in Kadima, Likud and Yisrael Beitenu, with the final MK representing Balad).<sup>70</sup>

However, of at least as much significance for Israel's Arab community was the relative success of Avigdor Lieberman's Yisrael Beitenu party that increased its number of seats from 11 to 15, surpassing the Labor Party as Israel's third largest party. During the election campaign, it successfully used repeated political attacks on Israel's Arab community to enable it to begin to breakout from its base as a party for Russian immigrants to gain a broader platform on the Israeli right, deftly reducing the effect of negative perceptions towards CIS immigrants by targeting an even more vulnerable group. Yisrael Beitenu capitalised on the opposition of Arab-Palestinian citizens to Operation Cast Lead in the Gaza conflict, strengthening their calls for their citizenship to be revoked if they refused to take an oath of loyalty to the state. Although Lieberman had previously been a government minister, his new role as head of the second largest coalition partner has enabled him to help set the government's approach to the Arab population.

### **Challenges for the 'Arab' parties and Hadash**

The relationship between the Israeli political mainstream and the three Arab majority parties has always been a fractious one. At no time in their current form have they been able to join a governing coalition, although they have at times been able to assist centre-left coalitions with small majorities from the outside. Although entirely understandable given the current political dynamics in Israel, the lack of Arab-Palestinian representation within parties capable of forming a government and the decline of Arab support for such parties does increase the risk of further marginalisation of their political voice. It does not bode well for long-term community cohesion if political support fragments entirely along ethnic

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<sup>70</sup> Ephtaim Lavie and Arik Rudnitzsky, Arab Politics in Israel and the 18<sup>th</sup> Knesset elections, Konrad Adenauer Program for Jewish-Arab Cooperation, <http://www.dayan.org/kapiac/files/Elections2009eng2.pdf> (accessed 23<sup>rd</sup> November 2010)



lines, with a gulf forming between the mainstream Zionist parties on the one hand, seemingly either only marginally interested in promoting the rights of Arab citizens or actively working to undermine them, and the 'Arab' parties on the other hand, taking increasingly polarised positions and subject to attempts to de-legitimise them. Sadly, the current political polarisation makes the alternative, Arab Parties being able to join a governing coalition, seem a long way off.

There have been several attempts to ban Arab parties over the last decade. In 2003 the Central Elections Committee voted, with a majority of one, to bar Balad and Ta'al (then running independently) from standing in the elections because of their opposition to Israeli policy in response to the Second Intifada. This was overturned by an 8:1 majority in the Israeli Supreme Court. Prior to the 2009 election, the Central Election Committee voted by a much larger majority (21 for 8 against and 2 abstentions<sup>71</sup>) to prevent Balad and UAL-Ta'al from contesting the election. Current Israeli Foreign Minister Avigdor Liberman called not only for Balad to be banned from standing in elections but for it to be made illegal claiming 'it is a terrorist organization whose objective is harming the State of Israel.'<sup>72</sup> Again, the decision of the Central Election Committee was overturned by the Supreme Court. It is worrying to note that, according to Prof Smootha's polling, almost one third of the Jewish population would seek to prevent Arabs from voting in Knesset elections, while 53% would seek to ban even the bi-communal Hadash party.<sup>73</sup>

Two of Balad's MKs have caused particular controversy, with former leader Azmi Bishara resigning his seat and fleeing into exile in 2007 amid

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<sup>71</sup> One Year for Israel's New Government and the Arab Minority in Israel , April 2010  
<http://mossawa.org/files/files/File/Reports/2010/Netanyahu%20Final.pdf> (accessed 1<sup>st</sup> December 2010)

<sup>72</sup> <http://www.ynetnews.com/articles/0,7340,L-3654866,00.html>

<sup>73</sup> To avoid accusations of selectively quoting from the statistics it should also be noted that the same 24.1% of Israel's Arab community do not agree with Israel's right to exist, a snap shot of community polarisation.

claims of high treason over political links to Hezbollah. MK Hanin Zoabi's participation in the Gaza flotilla in May this year led to the suspension of her parliamentary privileges for the remainder of the Knesset term<sup>74</sup>. In this second case, without wishing to be sidetracked by a wider discussion the rights and wrongs of the flotilla incident, it seems extreme to impose such a punitive sanction for peaceful protest against Israeli government policy.

All three parties are uncomfortable with the Israeli state's self-definition as Jewish and Democratic, with Balad perhaps the most strident in asserting its desire to replace the formulation with a definition of a state for all its citizens.

Some commentators the author has spoken to during the course of this project, from both the Jewish and Arab communities, have bemoaned a perceived lack of focus by these parties on socio-economic issues facing Israel's Arab communities and preference for broader issues relating to the peace process and the situation of Palestinians in the occupied territories. While this is a subjective view<sup>75</sup>, if accepted, they would be far from alone in the Israeli political system in prioritising the conflict over more everyday concerns. Ultimately, it is for Israel's Arab electorate to make the decision about their political priorities at the ballot box. If there is a clear political space being left open by existing Arab party focus on issues in Gaza and the West Bank and the Zionist parties retreating from the competition for Arab votes, then Israel's highly fluid politics and extremely proportional electoral system make it one of the easier countries in the world for new political movements to be created and achieve parliamentary representation.

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<sup>74</sup> Adalah, Petition to Israeli Supreme Court: the Knesset's Revocation of MK Haneen Zoabi's Parliamentary Privileges is Illegal and must be Cancelled, November 2010, [http://www.adalah.org/eng/pressreleases/pr.php?file=07\\_11\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=07_11_10) (accessed 23<sup>rd</sup> November 2010)

<sup>75</sup> In this author's view, increasingly inaccurate given the increasing need to respond to political attacks against their constituents.

## Legislative challenges

When analysing the worrying legislative environment facing Israeli Arab community, it is worth exercising a note of caution. Each recent Knesset session has been replete with a number of overtly racist bills that have helped alienate Israel's Arab minority and undermine community cohesion, rightly drawing national and international condemnation. Only a few however have become law, something that stems from the fact that the majority of these pieces of legislation are private members bills without Government backing. In the UK House of Commons, MPs enter a ballot system out of which seven (out of 650) get a brief amount of Parliamentary time. While this may be too few to give backbench members any real power and should be reformed, it provides a useful counterpoint to the legislative hyperactivity that afflicts the Knesset, with each member able to submit multiple bills per session. Perhaps, as with Israel's pure proportional representation system, some problems the country faces stem not from its democratic deficiencies but from its excesses.

This advisory note about the consistent hammering away at Israel's minority communities through the rantings of the National Union and Yisrael Bitenu backbenchers should not mask the fact that some of the themes they raise are increasingly being taken forward by the current government. There are a number of important examples that should be addressed. Firstly, there is the 'Nakba' law that approaches its final reading at the time of writing. This legislation started life in previous Knesset sessions as a private members attempt to criminalise public commemoration of the 'Nakba' (catastrophe), the creation of the Palestinian refugee population, around Israel's independence day.

In order to get government support the legislation has been watered down from what would have been a clear assault on freedom of speech to a far murkier proposition of barring organisations in receipt of state funding from participating in events that to some extent regret the creation of the state. With few NGOs working for Israel's Arab community

in receipt of government funding, the new law's effect will primarily be on local schools and local authorities that, when combined with recent attempts to alter the history curriculum in Arab schools to reflect the dominant Israeli narrative, creates a direct challenge to their cultural identity.

To an outside observer, it is possible to reconcile support for Israel's creation, if not the manner in which events occurred, with empathy for the plight of the Palestinian refugee population and support a resolution to the issue without placing blame solely on the Jewish leadership in 1948. However, rather than working to find areas of common ground and develop a framework that can accommodate different historical interpretations, the political momentum is towards greater polarisation and the politicisation of history. This law will not do anything to encourage acceptance of the dominant Israeli historical narrative amongst its Arab-Palestinian citizens. It will alienate students from the curriculum and with existing legislation against incitement, provisions are already in place to prevent such commemorations from encouraging hatred against the Jewish population. Therefore, this proposed law will limit freedom of speech and legitimate historical debate of this important issue, further alienate the Arab-Palestinian population and damage intercommunal dialogue. Maintaining freedom of speech in Israel cuts to the heart of the debate about the health of Israel's democracy. It must be hoped that those engaged in opposing a boycott of Israeli academic institutions should deploy their efforts to maintain the open space in Israel for debate and discussion that remains the strongest weapon against attempts to isolate Israel.

In a similar vein, the proposed loyalty oath for new citizens, approved by a majority cabinet decision, has its roots in attempts by hard right legislators, most notably Avigdor Liberman, to require Israel's Arab citizens to pledge allegiance to Israel's status as a Jewish state in order to gain access to full civil and political rights. Again, in order to gain government approval, the requirement to pledge allegiance to Israel as a 'Jewish and democratic state' rather than the simply the 'State of Israel' is

now to only be applied to new immigrants. Given that, since 2003, Palestinians, including those married to Israeli citizens, have been prevented from moving to Israel or attaining Israeli citizenship, under temporary legislation that is annually extended, the purpose of such legislation is almost entirely symbolic attempt to reassert Israel's identity as a Jewish state as discussed below. Such a move understandably alienates Israel's Arab communities and raises fears that an all encompassing oath may be brought forward in the future. Indeed the only conceivable positive for such legislation would be that the existence of such an oath should make it harder for the government to sustain the moratorium on family unification. At the time of writing, the future of the bill remains in doubt given inability to agree whether such a requirement be made to all new citizens or just the non- Jewish applicants, highlighting general anti-discrimination principles in favour of universality and the requirements of the Jewish law of return that requires equal treatment between new Jewish migrants and existing residents, either way this does little to reduce the symbolic impact on the Arab minority communities.

There seems to be a pattern forming whereby extreme backbench proposals become watered down to form a steady drip of government initiatives that are slowly eroding the rights of Israel's Arab community and undermining their already limited trust in the state to act in their interests. Few such proposals are as insidious as the attempts to restrict the activities of international donors.

### **Attacks on donations by international and progressive Jewish community donors**

The international donor community, both governmental and private, plays an important role throughout Israeli life supporting both government activities, including most notably US military aid, and the work of charities and institutions from environmental and cultural projects to universities

and hospitals. International philanthropy accounts for around 67.5% of the donations received by Israeli charities and other NGOs<sup>76</sup>.

When it comes to supporting more politically sensitive work with Israel's Arab community and relating to the Palestinians in the occupied territories, international donors are under attack on two fronts. Firstly, the 'Bill on disclosure requirements for recipients of support from a foreign political entity' that received government support in February 2010 would make it exceptionally difficult for advocacy organisations to receive support from foreign governments or multilateral institutions. To put this in context, EU funding for projects assisting Israel's Arab minority communities over the last decade total a highly significant €10,341,544<sup>77</sup>. In the 2009/10 financial year, the UK Foreign Office also donated over £100,000 to support projects that assist the Israel's Arab community and supported work between the Local Government Association and the mayors of municipalities in Arab communities and both the Abraham Fund and Sikkuy have been in receipt of grants of over \$1 million from USAID to support their work in recent times.

The bill would require organisations involved in attempting to alter the course of Israeli public policy who were in receipt of international governmental funding to be registered with the political party's registrar, jeopardising their charitable tax status. As well as making onerous monitoring requirements on NGOs, the bill requires that in every 'political activity' it publicises that its sources of international funding, this even goes to the extent that if someone from the organisation '*presents issues orally within the framework of a discussion or meeting involving political*

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<sup>76</sup> Lior Dattal, Haaretz, More than 70% of donations in Israel come from foreign philanthropists <http://www.haaretz.com/news/more-than-70-of-donations-in-israel-come-from-foreign-philanthropists-1.2545> (accessed November 29th 2010)

<sup>77</sup> Figures first accessed Jan 2010 from [http://ec.europa.eu/delegations/israel/projects/overview/index\\_en.htm](http://ec.europa.eu/delegations/israel/projects/overview/index_en.htm) (copy kept on FPC record). The site has now been changed and from this is possible to identify that €3,746,281 has been given since December 2008 as shown on site as of 23<sup>rd</sup> November 2010.

*activity, the recipient of support must note its status as a recipient at the outset of his presentation*<sup>78</sup>. It places the burden of responsibility for compliance on every principle activist of the organisation unless they can proactively prove that they could not have known about it. Furthermore, this requirement would extend to donors in the private sector internationally if they were in receipt of government support that totalled more than a third of their income, something surely extremely difficult to assess in some cases.

Such restrictions on donor support would seem to be unprecedented in a democracy. While requiring the publication of funding sources in annual reports or on websites are not overly onerous demands, the other restrictions and tax implications amount to a fundamental threat to freedom of speech and the ability of organisations from marginalised communities to engage in advocacy. It should be noted that the EU-Israel Action plan contains commitments from both parties to ‘promote and protect rights of minorities, including enhancing political, economic, social and cultural opportunities for all citizens and lawful residents’<sup>79</sup> and to ‘promote in Europe and in Israel education about the importance of tolerance and respect for all ethnic and religious groups’. Therefore the EU must be robust in its response to attempts to restrict it from supporting NGOs on projects that fall within these jointly agreed priorities and be clear that restrictions imposed in breach of these undertakings will have implications for EU-Israel collaboration in other fields. While always likely to be lower in priority for European diplomats than issues relating to the peace process and conditions facing Palestinians in the West Bank and Gaza, they should continue to raise issues regarding discrimination against Israel’s Arab minority communities, ensure it remains a major area for EU

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<sup>78</sup> Gisha.org, Bill on disclosure requirements for recipients of support from a foreign political entity – 2010, <http://gisha.org/UserFiles/File/HiddenMessages/legislation16%202.pdf> (accessed November 29<sup>th</sup> 2010)

<sup>79</sup> European External Action Service, EU/Israel Action Plan [http://ec.europa.eu/delegations/israel/documents/eu\\_israel/israel\\_enp\\_ap\\_final\\_en.pdf](http://ec.europa.eu/delegations/israel/documents/eu_israel/israel_enp_ap_final_en.pdf) (accessed November 23<sup>rd</sup> 2010)

funding and consider it in the wider scheme of EU-Israel relations in with respect to its human rights obligations and broader areas of collaboration. This must be done however with the recognition that in terms of inter-communal relations, all is not rosy in Europe's own garden.

The second line of attack has been the political targeting of progressive private philanthropy, including from sources within the Jewish diaspora. The New Israel Fund, perhaps the largest longstanding Jewish community donor to projects assisting Israel's Arab community, has been repeatedly targeted in recent years, albeit predominantly for its work in support of organisations working on the conflict. It has found itself under attack for the political views of some of the organisations it funds, notably where the recipient in question actively challenges state policy or supports a policy of Boycott, Divestment and Sanctions, a position firmly rejected by the NIF itself.

There is however a much more positive trend developing within the Jewish diaspora that is recognising the challenges faced by Israel's Arab community, seeking to educate the both the Jewish and international communities. Founded in 2006, the US based Inter-Agency Task Force on Israeli Arab Issues, comprising over 90 donor foundations, federations, direct service programs, and umbrella groups, has been at the forefront of raising awareness inside and outside the Jewish community and encouraging increased engagement with Israel's Arab community.

Following the lead of the US taskforce, and the involvement of several UK community organisations in that work, the UK Task Force on issues facing Arab citizens of Israel was set up in October 2009 under the joint leadership of Doug Krikler, Chief Executive of the UK's largest Jewish Community Donor organisation, the United Jewish Israel Appeal (UJIA), and Trevor Pears, executive chair of the Pears Foundation. While still in the early days of its development, the fact that it contains organisations very much from the mainstream of UK Jewish community life such as the Board of Deputies, UJIA and the Zionist Federation, as well as the more traditionally liberal donors such as the Pears Foundation and the UK arms



of the Abraham Fund and New Israel Fund, bodes well for its ability to reach out across the community. The challenge for the UK taskforce is not only to expand and embed its presence but to look to build links across Europe to provide support at an EU-wide level.

### **Israel as a Jewish state**

While this paper has focused on the practical problems facing Israel's Arab minority communities, there is a deeper conceptual issue that poses a challenge to the ability to achieve full and equal citizenship for all Israel's citizens and the politicised assertion of which is increasingly causing inter-communal tension – Israel's definition as a Jewish state.

As we have seen, reasserting Israel's identity as a Jewish and Democratic state has been behind both certain elements of domestic legislation and increasingly used as a condition in the peace process as a mechanism to act primarily as a counterweight to Palestinian demands for a right of return for the refugee population.

The Or Commission noted the issue of abolishing the definition of the state as a Jewish State and make it 'a state for all its citizens', a case made by various Arab-Palestinian Citizens groups and by a smaller number of leftwing Jewish ones. Yet it is a view with little support in mainstream Israeli Jewish society where such discussions are viewed as undermining the state, or even seditious, and yet as has been shown, the political trend is in the opposite direction. The articulation of Israel's Jewish status has long been used by some of Israel's critics who argue that the act of defining the state in terms of ethnicity inherently makes it racist, a case that, given the particular circumstances, this author rejects.

The establishment and maintenance of a nation state is an entirely legitimate goal of any people under their right to self determination in order to preserve their political and cultural rights. Israel is very much an archetypal nation state, shaped by the values of the time of its creation as empires receded and new nations were born. However, looking at the

situation over 60 years on, to define a state in ethnic and religious community terms rather than that of a nationality *that can be joined*, and encompassing a range of races and faiths, does jar to those coming from a Western experience, be it of multiculturalism or the melting-pot approach. While it is important to note that Israel is far from alone in defining itself in such terms, with many Arab states and Turkey<sup>80</sup> making similar provisions on grounds of ethnicity and in some cases religion, it does pose the question of how full equality can be achieved when the core definition of national identity is membership of a group that a minority of indigenous citizens are intrinsically unable to join.

As with so many things in Israel, at the core of the problem is the failure to resolve the conflict with the Palestinians, most notably finding a settlement to the issue of the right of return for refugees that restricts room for public debate and the search for a resolution to the issue. A negotiated solution to the right of return would bring clarity to a situation where the fear exists that the demographic balance of the state could be altered at a stroke<sup>81</sup>, thereby restricting the scope for open public dialogue about Israel's identity. The possible long-term post-conflict goal then could be a situation where Israel is a safe space both for the Jewish people and culture, where the dominant Jewish element in Israeli national identity is protected through immigration management as in most developed countries rather than by an explicit state definition in terms of ethnicity that implicitly marginalises minority groups. Ultimately, a lasting, equitable peace deal between Israel and the Palestinians, supported by a wider peace with the Arab world with a fair and durable resolution to the status of the Palestinian refugee issue is likely to be a pre-requisite for

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<sup>80</sup> For more on the issues around Turkish identity and minority rights please look at the Foreign Policy Centre's *Exploring Turkishness: Rights, Identity and the EU* series at <http://fpc.org.uk/research/turkey/>

<sup>81</sup> This is not to enter into a comparative discussion of the Jewish 'Law of Return' and the Palestinian 'Right of Return', the subject of many other analyses and one that cannot be effectively addressed here.

Israel to realistically begin to even think of moving beyond its *dejure* instance that it is a Jewish state to a looser *defacto* arrangement.

According to Prof Smootha's statistics, in 2009 around half of Israel's Arab community (51.6% - was as high in his figures as 70% in 2004) would be willing to accept 'Israel as a Jewish and Democratic state in which Jews and Arabs live together'. This publication argues that it is to this search for equal rights in practice that effort must be placed in the short to medium term rather than conceptual challenges that are unlikely to be resolved in the absence of a wider resolution to the conflict. Whatever both communities eventually agree on as a long-term goal, the increasingly strident political attempts to bolster Israel's definition as a Jewish state through legislation act to foster community division and are part of a wider attempt to delegitimise the citizenship of Israel's Arab community so should be vigorously opposed. In the medium term, full formal recognition of Israel's Arab community as indigenous national minority groups, as called for by the National Committee for the Heads of Arab Local Authorities in Israel may be an important step in strengthening their position within the development of Israeli identity.<sup>82</sup>

## **National service**

One of the major practical issues for Israel's Arab community regarding Israeli identity is the role of national service and the balancing of the rights of the citizen and their duty to the state. Military service in the Israel Defence Forces (IDF) is a central feature in the lives of the vast majority of Israel's Jewish citizens, an integral requirement of Israeli citizenship. With the exception of the Haredi community all Jewish men are expected to give three years and women two years of military service. Druze men are also conscripted while historically the IDF has actively encouraged volunteering amongst the Bedouin population. Arab-Palestinian citizens of

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<sup>82</sup> The National Committee for the Heads of Arab Local Authorities in Israel, Future Vision of the Palestinian Arabs in Israel, 2006, <http://www.adalah.org/newsletter/eng/dec06/tasawor-mostaqbali.pdf> (accessed November 23rd 2010)

Israel however are exempted from conscription on the grounds that they would be joining an organisation that serves in the occupied territories. Although many of the explicit benefits tied to military service have been scaled back, the centrality of national service in the Israel Defence Forces (IDF) in Israeli public life does place members of Israel's Arab communities at a disadvantage. It is in that context that attempts have been made since 2007 to encourage the participation of young Arab-Palestinian citizens in the Sherut Leumi, the national civilian service programme initially created for orthodox women, and discussions of a parallel service explicitly for members of the Arab community. The current initiative has had limited take-up and has been criticised by the 'Arab' parties in the Knesset<sup>83</sup> and advocacy organisations as an attempt to expect service from the community despite widespread discrimination against them.

While attempts to push this model are likely, and rightly, to be doomed to failure in the short-term, in the event of meaningful improvements in the rights and treatment of Israel's Arab-communities, it would not be unreasonable to expect young members of the community to participate in such a scheme on equivalent terms to which their Jewish compatriots serve in the IDF. As this report has shown, Israel is some way off from being able to demand from its Arab-Palestinian citizens the same *quid pro quo* of rights in exchange for duties. Furthermore, such demands need to be placed in the broader context of Israel's move away from guaranteeing its citizens a range of economic rights as the state's welfare structures have been pared back to make way for the private sector. Across all communities as the state accepts less responsibility for the social welfare of the citizen, the traditional model of rights balanced by duties to the state is undermined, posing wider questions of national service. The long-term implications of this will need to be assessed as would the implications of the creation of a larger national civilian service to which the majority of the Jewish population would be barred from participating

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<sup>83</sup>Amnon Meranda, Lieberman to Zahalka: We'll make sure you end up where you deserve, YNet, <http://www.ynetnews.com/articles/0,7340,L-3510477,00.html> (Accessed 29<sup>th</sup> November 2010)

in. Even if Israel seeks to maintain a model of citizenship, conditioned on performing certain duties to the state, dramatic improvements in the treatment of its Arab citizens would need to be achieved before making such a civilian service model mandatory or expecting significant voluntary participation.

## **Conclusions**

The FPC is releasing this report at a time when political attacks are increasing on those working from outside Israel to support progressive social change. Nevertheless, it is hoped that its findings and recommendations can be received in the spirit of constructive criticism in which it is intended and that its aim of helping to inform the wider international policy-making community about some of the complex issues will encourage its members to engage in the same spirit. Furthermore, this report forms part of the FPC's wider goal of work promoting minority rights across the world, as shown in our recent work on Iran, Turkey, Kazakhstan, Georgia, Russia and Europe's Roma community.

The attempted de-legitimation of Arab communities as Israeli citizens is a problem that casts a dark cloud over Israeli society and has ramifications for how the country is seen by the outside world and its long-term prospects for rapprochement with both the Palestinians and the wider Arab world. The increasing demands for conditionality on citizenship may have some echoes in European and North American responses to the assimilation of immigrant communities into the majority community, fraught as that debate is with its own challenges and pitfalls. The reality in Israel differs in a fundamental respect – the indigenous nature of Israel's Arab community. These communities did not come to Israel; Israel was forged around them in the aftermath of Ottoman withdrawal, coming into being at the end of the caretaker British mandate. It therefore places an onus on the state, perhaps more analogous to the situation of Native Americans or Australia's Aboriginal populations (both historically subject to majoritarian discrimination), to find ways to support the communities and frame state processes in a way that accepts their different history and

future challenges. Political chatter and widespread public support for transfer of people or towns to a future Palestinian state must be met head on. Full and equal citizens cannot become a geopolitical bargaining chip.

The Apartheid analogy is often used to describe Israel's actions by some of its more vehement critics. From the evidence compiled over the course of this project in relation to the action of the Israeli state towards its Arab-Palestinian citizens, this author would argue that such a sweeping comparison is unhelpful to those wanting to gain a more detailed understanding of the complex and deep challenges the country faces in delivering equality for all Israelis. There are indeed legitimate concerns that the current ethnic grounds used to define the state make it difficult to reach full equality between the two main communities and there are clear areas where the state institutionally discriminates against its Arab communities, through both design and neglect. However Israel's Arab-Palestinian citizens have a level of civil and political rights along with legal and institutional mechanisms to improve their situation that makes the comparison with Apartheid-era South Africa misleading. Though still wide of the mark if international analogy is required, perhaps a closer comparison would be with Russian minorities in some former Soviet states<sup>84</sup> or to some extent Europe's Roma communities<sup>85</sup>.

Achieving coexistence between the two communities is an important first step but it cannot be the ultimate goal of public policy. Full equality in all areas of public life and greater integration between the communities must be the long-term aim. Positive work by coexistence projects and advocacy organisations needs to be integrated and mainstreamed by the state, taking their ideas and disseminating them across the country. The state needs to take full responsibility for the equality of its citizens, asking itself

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<sup>84</sup> See FPC Kazakhstan at a Crossroads or for examples in a democracy see Sammy Smooha, The Model of Ethnic Democracy, European Centre for Minority Issues, [http://www.ecmi.de/download/working\\_paper\\_13.pdf](http://www.ecmi.de/download/working_paper_13.pdf) (accessed December 1st 2010)

<sup>85</sup> On the former see the FPC's Kazakhstan at a Crossroads by the same author and on the latter Richard Howitt MEP's article.

whenever perusing a line of policy about their impact on minority communities<sup>86</sup>, only proceeding if it does not harm them and searching wherever possible to increase equality between communities.

The brief flurry of government initiatives in the early part of the last decade to address minority rights have faded into a political situation increasingly marked by political attacks on Israel's Arab minority communities. However the political picture, while undeniably bleak, may not be one of the inexorable march of hard-right leaning opinion that it appears at first view. Despite the vocal nature of Yisrael Biteneu and others on the right, their prominence within the current coalition government combined with the increased frequency with which anti-Arab sentiment is aired in public, the statistics show that Jewish community attitudes towards equality with Israel's Arab minority communities more stable than they might seem to be, although at an extremely worryingly low base. According to Professor Smoooha's statistics where roughly two thirds of respondents consistently support equal rights<sup>87</sup> throughout the time period of his data. A more negative picture can be found by the Israeli Democratic Institute whose most recent 2010 study showed that 51% of the Israeli public support full equality of rights between the Jewish and Arab minority communities<sup>88</sup>. This figure, while rightly causing concern in the Israeli press is in fact, very similar to the IDI's figure in 2003 for the

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<sup>86</sup> As, for example, the UK government is legally required to do.

<sup>87</sup> Smoooha [http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67\\_Smoooha\\_1a.pdf](http://www.iataskforce.org/sites/www.iataskforce.org/files/PW67_Smoooha_1a.pdf)  
The data is actually quite complex. In 2009 66.7% of Israeli Jews supported the statement 'Accept Arabs as full members of Israeli society'. In fact a higher percentage supported the phrase 'Arab citizens have a right to live in the state as a minority with full civil rights' (72.2% in 2003 up to 78.8% in 2009) however that statistic is immediately followed by one showing that only 2/3rds of Jewish respondents agreed that 'Arab citizens should be allowed to vote to the Knesset' suggesting 10% of the population has a slightly idiosyncratic interpretation of civil rights.

<sup>88</sup> Asher Arian, Tamar Hermann, Yuval Lebel, Michael Philippov, Hila Zaban and Anna Knafelman, The Israel Democracy Institute, Auditing Israeli Democracy – 2010 Democratic Values in Practice [http://www.idi.org.il/sites/english/SectionArchive/Documents/Auditing\\_Israeli\\_Democracy\\_2010.pdf](http://www.idi.org.il/sites/english/SectionArchive/Documents/Auditing_Israeli_Democracy_2010.pdf) (accessed December 2<sup>nd</sup> 2010)

same question<sup>89</sup>, (52%, although rose to 60% in 2006). In the IDI current survey 55% of the public believe that greater public resources should be targeted towards the Jewish communities than Arab minority communities, with only 42% disagreeing with this discriminatory position.

While actual Israeli Jewish attitudes towards Israel's Arab community may have not significantly hardened in recent years the perception created by the increased prominence of those who vocalise such discriminatory views certainly gives the impression that they have, something that significantly contributes, alongside the impact of the Second Intifada and failures in the peace process, to the understandably increased negativity in the Arab population.

This report then seeks to encourage Israeli and international policy-makers to engage firmly but constructively on ways to improve the conditions of Israel's Arab-community. It is time that Israel's Arab-community achieves the status of full and equal citizens that the state's founders declared they should be.

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<sup>89</sup> Asher Arian, Nir Atmor, Yael Hadar, The Israel Democracy Institute, The 2006 Israeli Democracy Index, Auditing Israeli Democracy Changes in Israel's Political Party System: Dealignment or Realignment?  
[http://www.idi.org.il/sites/english/PublicationsCatalog/Documents/DEMOCRACY\\_INDEX2006.pdf](http://www.idi.org.il/sites/english/PublicationsCatalog/Documents/DEMOCRACY_INDEX2006.pdf)  
(accessed 2 December 2010)



## Recommendations for Israel

- Set an urgent deadline for the completion of town and area plans for every Arab community either lacking such a plan or where it is fundamentally incompatible with local needs. In order to meet this challenge, a comprehensive and fully funded programme needs developed, to be undertaken with the support of civil society. Clear benchmarks must be created to ensure progress is made and budgets fully utilised.
- Reform Jewish Agency, JNF and ILA practices to comply with internationally recognised anti-discrimination policies and in line with Israeli Supreme Court judgements, so that they operate equitably to all groups of Israeli citizens. Similarly, Israel must end any discrimination in access to social and other government supported housing and initiate a programme of house building, including new build social housing, particularly in targeted areas such as mixed cities and Arab villages to equalise coverage between different population groups. Measures to further restrict the access of citizens from Israel's Arab community to housing in other communities should be fundamentally opposed.
- Israel must look to achieve at minimum an equalisation of government spending across the communities before moving to the positive discrimination on the basis of need set out by Justice Or.
- Israel must find away to meet it's much delayed target of 10% Arab employment in the civil service by 2012 as any further delay will extinguish any lingering hope that the government is proactively working to resolve this situation. As part of delivering the wider policy of Arab representation on government boards, the government should ensure representation on the board of the ILA and work to increase participation on planning committees.

- Israel must work to strengthen the EEOC to build both its capacity and political profile so that over the medium term it can play a central role in the fight against discrimination in the Israeli workplace, properly resourced and independent from government.
- While unlikely in the short-term, with an advocacy community almost entirely on the defensive against new discriminatory laws and practices, in the medium to long term, Israel should look to establish a public commission with a wider human rights or equality remit to promote the rights of Israel's Arab community and help enforce laws and best practice.
- Although far from a silver bullet, Israel could explore creating a duty on local municipalities and regional councils similar to that created in the UK by the Race Relations (Amendment) Act 2000 to proactively work to eliminate unlawful racial discrimination, promote equality of opportunity and good communal relations between members of different racial groups.<sup>90</sup> A broader duty to promote equality and prohibit racial discrimination could also be added as amendment to Israel's Basic Law: Human Dignity and Liberty to fully embed these principles across Israeli society<sup>91</sup>. Once any further laws or duties are in place the EEOC or another new equality body as proposed above could take up a monitoring and enforcement role to push state agencies and authorities at all levels towards compliance. Similarly, the role of the government ombudsman in tackling discrimination in access to public services should be strengthened.

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<sup>90</sup> In the UK this is currently being consolidated into a single equality duty for local authorities

<sup>91</sup> UN, Concluding observations of the Committee on the Elimination of Racial Discrimination - Israel, June 2007 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/424/79/PDF/G0742479.pdf?OpenElement> (accessed November 23<sup>rd</sup> 2010). The author is aware of the complex and contentious nature of the relationship between Israel and the UN's anti-racism forums. This however doesn't prevent this from being a sensible suggestion in keeping with anti-discrimination practice around the world.

## **Recommendations for the international community**

- The EU must be robust in its response to attempts to restrict it from supporting NGOs on projects that fall within the jointly agreed Action Plan priorities and the spirit of the human rights commitments in the EU-Israel Agreement. As recommended in greater detail in the FPC's 2009 publication, *Spotlight on Georgia*, the EU needs to develop a more coherent approach to promoting human rights in all countries with which it engages, setting clearer benchmarks for compliance with the requirements on these issues, make action plans and association agreements tied to larger incentives and institute penalties to make such provisions meaningful. In the case of EU-Israel relations, much of the focus will remain targeted towards the relationship between the state and the Palestinians beyond the 1967 borders but the issues addressed here should always remain on the table and concerns over the restrictions on NGOs should be raised repeatedly.
- EU and European Investment Bank funding should be made available to deliver a comprehensive set of master plans that could be submitted for adoption by local municipalities and regions in the event of continued foot dragging by the Israeli government using a mixture of expertise from international planners and local civil society to close Israel's planning gap.
- The EU should maintain and preferably increase its funding of civil society projects addressing these issues and work with the Israeli government to look at arrangements for supporting the EEOC beyond the end of the current twinning project in 2012.
- The UK and other member states should continue to bilaterally support initiatives in this area and where appropriate their political parties, equality bodies and trade unions should strengthen dialogue with their Israeli counterparts on community cohesion and equality issues to promote best practice.

- One of the medium-term goals for the Jewish taskforces on both continents should be to develop their mapping of donations to Israel from across the Jewish community. This will help meet a longer-term goal of achieving an equitable division of international charitable donations between Israel's two largest communities, with projects in the Arab community receiving a share of donations equivalent to its proportion of the population and on the basis of need.
- In the UK, the FCO in London should publicly recognise the work of the new UK Task force not only as playing an important role in encouraging awareness and education about the sector but also in the important role it plays developing international public understanding of the issue, both within and to an extent outside the Jewish community. It is hoped that the continued strengthening of the UK Task force of Arab Citizens of Israel will enable it to develop its work with other European Jewish communities, with a view to developing an EU-level presence.

## **About the Author**

Adam Hug has served as Policy Director at the FPC since June 2008. He leads the FPC's work on Democracy, Governance and Human Rights in the Middle East and Former Soviet Union as well as managing the Europe in the World programme. His previous publications on human rights related issues include Spotlight on Georgia, Kazakhstan at Crossroads and the Iran Human Rights Review: Religion. Other publications include Reconnecting the European Parliament and its People and Turkey in Europe: The Economic Case for Turkish Membership of the European Union.

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This report seeks to give an overview of some of the main challenges facing Israel's Arab minority communities. It highlights three of the most important areas: political climate; employment; and the linked challenges of planning, housing and access to land. While deep-rooted challenges remain, there are some positive initiatives, both in Israel and beyond that can help deliver genuine progress.

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