

# JOURNAL *of* LAW & PUBLIC AFFAIRS

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Vol. 3

May 2018

No. 1

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## ARTICLE\*

### **A JEWISH STATE AND A STATE FOR ALL OF ITS CITIZENS: ADDRESSING THE CHALLENGE OF ISRAEL'S ARAB CITIZENS**

*Samuel Estreicher\*\**

*Israel has claimed since its founding that it is both a Jewish State, a special refuge for the Jewish people with an obligation to preserve Jewish culture, and a state for all of its citizens. Israel has maintained, largely successfully, a vibrant democratic and civil society in the face of ongoing threats to its national security and public order. On the level of formal*

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\* This article includes modified content of a keynote address presented by Samuel Estreicher at the Conference on “Integration and Equality between Jews and Arabs in Israel: Higher Education and Representation as a Key to Multiculturalism” (sponsored by the Shalom Comparative Legal Research Center, Ono Academic College) on July 14, 2016 in Kiryat Ono, Israel. An earlier version of this keynote was presented for the Conference on “New Venues in Equality” (sponsored by the Shalom Comparative Legal Research Center, Ono Academic College) on July 28, 2014 in Kiryat Ono, Israel. The author’s initial essay on the subject appeared as *Foreword: Arab Citizens of Israel: The Challenge for Israel and its Critics*, 36 N.Y.U. J. INTL. L. & POL. 673 (2004). I am indebted to the helpful comment and work of Mark Salomon and Steven Menashi; I also benefited from conversations in Israel with representatives of the Abraham Fund Initiatives and Sikkuy, both organizations devoted to the very important work of promoting equality for Israel’s Arab citizens. All remaining errors are mine.

\*\* Dwight D. Opperman Professor of Law and Co-Director, Institute for Judicial Administration, New York University School of Law.

*equality, on such matters as voting rights, access to the courts and the provision of educational opportunities, Israel has lived up to its commitments to its Arab citizens.*

*But there are a number of significant areas where Israel has not lived up its commitments. Israel needs to take seriously its greatest domestic challenge: How best to address the needs and aspirations of the nearly 20% of Israeli society who are Arab citizens. These citizens are not a fifth column, but they are a population with conflicting orientations between Israel (where polls consistently indicate they prefer to live) and their Palestinian brethren in Gaza and the West Bank. They are a minority population on the edge, unhappy with their status—not fully within Israeli society, nor lost to the radical, nihilistic forces from without. The critical task for Israel is successful “integration” of this important minority, not in the sense of suppressing its distinct culture or its emotional connection to the fate of Palestinians elsewhere but rather in normalizing its economic and social position within Israel.*

*Four strategies for integration/normalization are considered (1) instituting vigorous enforcement of anti-discrimination laws in employment, housing and business, coupled with a visible affirmative action program to place university graduates in the high-tech and other growing sectors of the economy; (2) requiring all Israeli citizens to complete 2 years of national service, which need not be military service; (3) changing the electoral system so that the system promotes legislator accountability to local constituencies rather than political parties; and (4) advancing public symbols of inclusion.*

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### INTRODUCTION

Israel has had perhaps more than its share of problems with its neighbors, but the country is a remarkable success story. Israel has maintained, largely successfully, a vibrant democratic and civil society in the face of ongoing threats to its national security and public order. Few, if any, countries, including the United States have (or could have) fared as well.

The great challenge for Israel, however, lies more within than outside of its borders: How best can Israel address the needs and aspirations of the nearly twenty percent of Israeli society who are Arab citizens?<sup>1</sup> This nearly twenty percent of Israeli society who are Arab citizens are not a fifth column; rather they are a population with conflicting orientations between Israel (where polls consistently indicate they prefer to live) and their Palestinian brethren under occupation in Gaza and the West Bank and the larger Arab-Muslim community.<sup>2</sup> They are a minority population on the edge, unhappy with their social and economic position in

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<sup>1</sup> The reference here is primarily to the situation of the Muslim Arabs. The Druze, Bedouin, and Christian Arab communities have been somewhat more successfully integrated into Israeli society than its Muslim Arab population.

<sup>2</sup> See, e.g., Itamar Radai, Meir Elran, Yousef Makladeh, & Maya Kornberg, *The Arab in Israel: Current Trends According to Recent Opinion Polls*, 18 STRATEGIC ASSESSMENT 101, 101 (July 2015) (“The Arab citizens in Israel today comprise approximately 20 percent of the state’s population”); *Poll: Arabs Prefer to Live in Israel*, ISRAEL TODAY, (Oct. 9, 2017) (providing results from a survey that “asked local Arab residents how they personally view the State of Israel”); *Half of Jerusalem Arabs want to be Israelis*, TIMES OF ISRAEL (Aug. 19, 2015) (“Palestinians living in Jerusalem would prefer Israeli citizenship to being citizens of a Palestinian state” while only four percent of Palestinians living in the Gaza Strip and twelve percent of those living in the West Bank preferred Israeli citizenship).

the country—not fully within Israeli society, nor lost to the radical, nihilistic forces from without. The pressing task for Israel is successful “integration” of this important minority, not in the sense of suppressing its distinct culture or its emotional connection to the fate of Palestinians elsewhere, but rather in normalizing its economic and social position within Israel so that they, too, share a stake in the society.<sup>3</sup>

## I. THE FALSE CRITIQUE: ISRAEL AS AN ANACHRONISM

We should set to one side the misguided view that has taken hold in some liberal internationalist circles that Israel came on the world scene a bit too late, that its commitment to being a Jewish state and serving as a beacon for Jews everywhere is an anachronism to be swept aside by the march of history. To quote the late Tony Judt of New York University: Israel “remains distinctive among democratic states in its resort to ethno religious criteria with which to denominate and rank its citizens” and has thereby “imported a characteristically late-nineteenth century separatist project into a world that has moved on, a world of individual rights, open frontiers and international law.”<sup>4</sup>

Haifa sociologist Sammy Smootha similarly writes:

Israel is a diminished ethnic democracy and not a liberal democracy because the state recognizes ethnic groups, not just individuals. It is neither a liberal nor a multicultural democracy because it makes Jews a core ethnic nation and the Arabs non-core outsiders . . . .

Israel is an ethnic democracy and not a consociational democracy because the state is neither binational nor neutral in the dispute between minority and majority but is rather identified with the Jewish majority that employs it as

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<sup>3</sup> It has been suggested that Israeli Arabs are faced with a choice between two different frameworks: a “discourse of difference” where “Arabs’ ethnocultural identity, rather than their Israeli citizenship, should be the starting point of their demands for change” and a “discourse of recognition” which “takes Israeli citizenship, rather than Arab identity, as its starting point.” As’ad Ghanem, *Israel’s Second-Class Citizens: Arabs in Israel and the Struggle for Equal Rights*, 95 FOREIGN AFFAIRS 37, 39 (July/August 2016).

<sup>4</sup> Tony Judt, *Israel: The Alternative*, N.Y. REV. OF BOOKS (Oct. 23, 2003); Tony Judt, ‘*Jewish State*’ Has Become an Anachronism, L.A. TIMES (Oct 10, 2003).

a vehicle to further its particular interests.<sup>5</sup>

These statements represent a false critique. There is no necessary conflict between a state's commitment to repatriation of a particular national group or to preserving the culture and identity of a particular group and the maintenance of a vibrant liberal, inclusive democratic society.<sup>6</sup> The challenge of multiple socio-ethnic groups within a polity committed to democratic values—the challenge of multiculturalism in a democracy—is ever-present. Having enjoyed the benefit of homogeneous populations at least since the end of the Second World War, Western Europe has been tested only recently. With the waves of Muslim immigrants into EU countries, the tensions are greater and accommodations are required, but the liberal European state is not abandoning its commitment to a dominant national and cultural ethos or, in some cases, a dominant religious or secularist orientation. The French, for example, are quite insistent on their secularist identity (termed *laïcité*) and seek to keep religious displays entirely out of the public sphere—even as the state funds religious schools and even where allowing some latitude would not rip apart the social fabric.<sup>7</sup> Germany has only recently recognized that individuals of non-German blood but born in Germany or residing there for long periods may be eligible for citizenship under strict conditions.<sup>8</sup> Neither Ireland nor

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<sup>5</sup> SAMMY SMOOHA, THE MODEL OF ETHNIC DEMOCRACY, EUROPEAN CENTRE FOR MINORITY ISSUES 55 (2011); see also *The model of ethnic democracy: Israel as a Jewish and democratic state*, 8 NATIONS AND NATIONALISM 475 (No. 4, 2002). See generally Sammy Smooha, *Ethnic Democracy: Israel as an Archetype*, 2 ISRAEL STUDIES 198, 198-241 (1997) (exploring “the issues, tensions, and contradictions in ethnic democracies and the strategies employed for dealing with them” through a “detailed application of this model to Israel [and] the division between the Jewish majority and Arab minority”).

<sup>6</sup> Many European countries have repatriation policies favoring their fellow nationals in diaspora. See generally Steven Menashi, *Ethnonationalism and Liberal Democracy*, 32 UNIV. PA. J. OF INTL. L. 57, 57 (2010) (discussing the repatriation policies of European countries, such as Greece, Poland, Ireland, the Czech Republic, Bulgaria, and Italy).

<sup>7</sup> See, e.g., Elizabeth Winkler, *Is It Time for France to Abandon Laïcité?*, THE NEW REPUBLIC (Jan. 7, 2016) (discussing the French's strong belief in *laïcité* and examples of religious and racial tensions that develop as a result).

<sup>8</sup> See Matthias Bos, *The Legal Construction of Membership: Nationality Law in Germany and the United States*, 11 (Program for the Study of Germany and Europe, Working Paper Series No. 00.5, 2000) (referring to the First Act Amending the Nationality Act in 2000). There since have been further amendments to Germany's Nationality Act. See *Law on Nationality*, FEDERAL FOREIGN OFFICE, <https://www.auswaertiges-amt.de/en/einreiseundaufenthalt/staatsangehoerigkeitsrecht-node> (providing the “central

England has abandoned its identification with an official state church with links to expatriate coreligionists.<sup>9</sup>

Under international law, as the practice of nations reflects, countries can have a particular national or even ethnic character as long as they do not discriminate against particular racial or ethnic minorities *within* their borders. Thus, the prohibition against racial discrimination in the International Convention on Elimination of All Forms of Racial Discrimination<sup>10</sup> exempts legal provisions “concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.”<sup>11</sup>

Israel fares fairly well on the plane of formal legal equality. In nearly all areas of public participation, the state does not officially discriminate against its Arab citizens.<sup>12</sup> They are permitted to serve in the armed forces, if they wish (as do the Druze and Bedouin Muslims).<sup>13</sup> They

points” of the Second Act Amending the Nationality Act that became effective in 2014).

<sup>9</sup> The Constitution of Ireland was amended in 1973 to remove language recognizing the “special position” of the Roman Catholic Church. The Constitution in Article 44.1 nevertheless still provides: “The State acknowledges that the homage of public worship is due to Almighty God. It shall hold his Name in reverence, and shall respect and honour religion.” Constitution of Ireland 1937 art. 41. The Preamble to the Constitution provides in part:

In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,  
We, the people of Eire,  
Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial . . . .

Constitution of Ireland 1937 pmb1.

The Church of England is the state church of England and part of the worldwide Anglican Communion. *Church of England*, BBC, [http://www.bbc.co.uk/religion/religions/christianity/cofe/cofe\\_1.shtml](http://www.bbc.co.uk/religion/religions/christianity/cofe/cofe_1.shtml). The Church receives no direct government support. Frank Cranmer, John Lucas, & Bob Morris, *CHURCH AND STATE: A MAPPING EXERCISE* 30 (2006). For a discussion on the historic subvention of the Church of England, see *id.* at 30-36. Religious schools in the UK are almost entirely state funded. See Faith schools in England now almost entirely state funded (Dec. 27, 2013), <http://accordcoalition.or.uk/2013> (last visited May 3, 2018).

<sup>10</sup> G.A. Res. 2106, 20 U.N. GAOR, 20th Sess., Supp. No. 14, U.N. Doc. A/6014, at 48.

<sup>11</sup> *Id.*

<sup>12</sup> *But see infra*, note 23.

<sup>13</sup> See, e.g., Paul Goldman, *Arab Israelis Are Joining the IDF in Growing Numbers: Officials*, NBC NEWS (Feb. 27, 2017), <https://www.nbcnews.com/news/world/arab-israelis-are-joining-idf-growing-numbers-officials-n724586> Arab Israelis are defying tradition by serving in the Israeli military).

enjoy the right to vote, run for office, and vigorously exercise rights of free expression, association and group protest. Participation rates are high in Knesset and local elections.<sup>14</sup> Twelve of 120 Knesset members are Arabs: nine of the twelve are from Arab parties.<sup>15</sup> There is a large, growing network of NGOs and civil associations, many of which are staffed by Israeli Arabs and oriented to the Arab communities.<sup>16</sup> Arabs have served on the Israeli Supreme Court and as military commanders. Arabs have their own state-supported school system where Arabic is a principal language of instruction.<sup>17</sup>

## II. NORMALIZATION

The term “normalization” is used here to suggest the fostering of institutional arrangements that would enable Israeli Arabs to flourish in Israel. The objective is to have Arab citizens become part of a thriving middle class with a stake in the country’s survival and viability.

Israel has made great progress in bringing Arab citizens into its higher education system.<sup>18</sup> But formal education, although necessary, is not

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<sup>14</sup> See, e.g., Ariel Ben Solomon, *Arab Sector Turnout for Recent Elections Reached 63.5%, Polling Data Shows*, JERUSALEM POST (March 24, 2015), <http://www.jpost.com/Israel-Elections/Arab-sector-turnout-for-recent-elections-reached-635-percent-polling-data-shows-394878> (noting that Israeli Arab voter turnout has been over sixty percent in recent elections).

<sup>15</sup> In the 2015 elections, the “Joint List” of Arab parties ran on a single ticket and garnered thirteen seats, the third largest political grouping in the Knesset. Adam Lebor, *The Real Arab Spring is Happening in Israel*, NEWSWEEK (April 13, 2015), <http://www.newsweek.com/2015/04/17/real-arab-spring-happening-israel-321724.html>.

<sup>16</sup> Important organizations in this space include Sikkuy, the Abraham Fund initiatives, Merhavim, Tsoften, Kav Mashve, Injaz, Dirasat, Givat Haviva and AJEEC-NISPED. See E-mail from Carl Perkal, Dir. of Res. Dev. for Sikkuy (March 23, 2016) (on file with author).

<sup>17</sup> Serious problems remain with unequal funding of schools for Arab children and a surplus of Arab teachers who do not find employment in schools for Jewish children. See Or Kashti, *For Jews and Arabs, Israel’s School System Remains Separate and Unequal*, HAARETZ (July 7, 2016), <https://www.haaretz.com/israel-news/.premium-for-jews-and-arabs-israels-school-system-remains-separate-and-unequal-1.5406700> (discussing the inequities in the schools systems for Jews and Arabs in Israel). In addition, without detracting from the importance of preserving Arabic language and culture, fluency in Hebrew should be strongly encouraged in these schools because such fluency will be an important determinant of economic success in the larger society.

<sup>18</sup> According to a survey conducted by the Israeli government’s Council for Higher Education, “the number of Israeli Arabs pursuing bachelors degrees at Israeli universities

sufficient for normalization. An educated but frustrated elite also can be the undoing of a social order. Education will help create a leadership corps, but unless educated Arab citizens have concrete political, economic and social opportunities in the society, they may become stokers of social upheaval rather than stakeholders in a stable, secure, and thriving Israel.

The appeal here is not simply to liberal or cosmopolitan values, or to Israel's self-professed identity as a Jewish state and a state for all of its citizens.<sup>19</sup> It is also an appeal to the enlightened self-interest of all Israelis, Jewish and Arab. Social order will not be sustainable unless all in the society believe they have full economic and social opportunity to live a good life, and thus feel they have a stake in Israel's survival and flourishing.<sup>20</sup>

### III. STRATEGIES

There are four normalization strategies to consider: (1) instituting vigorous enforcement of antidiscrimination laws in employment, housing and business, coupled with a visible affirmative action program to place university graduates in the high-tech and other growing sectors of the economy; (2) requiring all Israeli citizens to complete 2 years of national service, which need not be military service; (3) changing the electoral system so that the system is based on legislator accountability to local constituencies rather than political parties; and (4) promoting public

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and colleges jumped 60 % over the last seven years to 47,000 in 2017.” See Lior Dattel, *Number of Arabs in Israeli Higher Education Grew 79% in Seven Years*, HAARETZ (Jan. 14, 2018), <https://www.haaretz.com/israel-news/number-of-arabs-in-israeli-higher-education-grew-79-in-seven-years-1.5763067>. These students “accounted for 16.1 % of all students in bachelor degree programs [that] year, up from 10.2% in 2010[.]” *Id.*

<sup>19</sup> As the fledgling state announced in its declaration of independence on May 14, 1948: “The State of Israel . . . will uphold the social and political equality of all its citizens, without distinction of race, creed, or sex; will guarantee the full freedom of conscience, worship, education, and culture; will safeguard the sanctity and inviolability of the shrine and Holy Places of all religions . . . .” The Declaration of the Established State of Israel, (May 14, 1948), available at [https://www.knesset.gov.il/docs/eng/megilat\\_eng.htm](https://www.knesset.gov.il/docs/eng/megilat_eng.htm). The declaration specifically urged “the Arab inhabitants of the state of Israel to return to ways of peace and play their part in the development of the State, with full and equal citizenship and due representation in its bodies and institutions – provisional or permanent.” *Id.*

<sup>20</sup> See Mohammad Darawshe & Amnon be’eri-Sulitzeanu, *The Economic Benefits of Social Inclusion and Arab-Jewish Equality*, SOCIAL INCLUSION & EQUALITY 1-2 (2009) (urging greater public attention “towards the social and economic price incurred by maintaining two distinct economies that are loosely tied at best.”).



symbols of inclusion.

Each of these steps would make a positive contribution in its own right, but together they hold the potential for solidifying the material and emotional stake of Israel's Arab citizens in a thriving, secure Israel.

#### IV. THE AMERICAN EXPERIENCE

In the United States we have recently celebrated the 50th anniversary of the Civil Rights Act of 1964 and the Voting Rights Act of 1965. These laws have thoroughly transformed American society. They have helped create a growing, prosperous African-American middle and professional class. African-Americans are leaders in the business, legal, education, entertainment, and political spheres. Despite persistent overrepresentation of African-Americans among the American poor and continuing tensions in certain areas (e.g., the continuing salience of racial discrimination, the behavior of police forces in urban areas, the rate of promotion to corporate and government managerial ranks), African-Americans on the whole are firmly and emotionally committed to the United States.<sup>21</sup>

It was not always this way. For nearly ninety years after emancipation from slavery, African-Americans were ruled by terror in the American South and their needs were largely ignored by the larger society. The military was segregated until the Korean War. Segregation of the races in the schools and public facilities was outlawed only in the late 1950s and mid-1960s;<sup>22</sup> troops were needed in ensuing years in Southern cities to enable African-American students to attend the same schools as whites. Our cities were ablaze in the 1960s, and we saw the beginnings of black radical groups, some like the Black Panthers openly carrying guns into state legislatures and courts to intimidate whites.

The upheaval of the 1960s helped galvanize national commitment to the principles of equal opportunity and racially neutral administration of the

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<sup>21</sup> Of course, the situation of Israeli Arabs is not identical to the situation of African-Americans. The former share an identity as an indigenous people with a competing ethnonational orientation, which is generally not true of African-Americans.

<sup>22</sup> See *Brown v. Bd. of Educ. of Topeka, Kan.*, 347 U.S. 483 (1954), supplemented, 349 U.S. 294 (1955) (determining that the segregation of children in public schools on the basis of race violates the Equal Protection Clause of the Fourteenth Amendment); *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 348 (1964) (prohibiting racial discrimination in public accommodations).

laws. This did not happen overnight but today these values are widely shared across the United States.

We call much of what we do in the U.S. the pursuit of equal opportunity and diversity. The underlying goal is to promote ongoing scrutiny of how institutional arrangements promote or retard opportunity for all and, where we can, to further the advancement of African-Americans and other minorities onto all of the principal ladders of American success—professional schools, university faculties, law firms, business management, corporate boardrooms, legislatures and executive offices.<sup>23</sup>

The work is ongoing, the progress uneven. In the legal arena, for example, African-Americans are not fully represented in business law subjects on U.S. law faculties; and more importantly, few become partners in major law firms. They are prominent, however, in the ranks of prosecutors, public defenders, magistrates, judges, and increasingly corporate CEOs.

## V. THE MORE DIFFICULT ROAD FOR ISRAEL

The task for Israel in normalizing the position of its Arab citizens is a great deal more difficult than it has been for the United States (at least since the late 1960s) in normalizing the situation of our African-American citizens. There are at least two reasons why this is so. The first is that Israel is committed to retaining its character as a Jewish state—not just a place of refuge for Jews but a state committed to the preservation of Jewish identity and culture. The integration or normalization of a minority with a different racial makeup or ethnic or religious background is far less difficult in the U.S. context where there is no a priori, overriding commitment to any racial, ethnic or religious group. In a strong sense, the U.S. is a neutral arbiter among groups; cosmopolitan values are fully congenial to the nation's founding premises. This is a complicating factor, but not an unbridgeable hurdle.

The second reason for Israel's greater difficulty is the continuing threat to Israeli national security from its Arab neighbors and, since the first Intifada on, from its Palestinian neighbors in particular. In the United States, however difficult the domestic position of African-Americans has

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<sup>23</sup> For recent U.S. learning on the subject, see *Fisher v. University of Texas*, 136 S.Ct. 2198 (2016) (ruling that the University's use of an admissions policy that considered race as part of a holistic-review process to achieve greater diversity did not violate the U.S. Constitution's equal protection clause).

been, they felt no conflicting loyalties to adversaries of the United States in any of its wars or other military conflicts at least since the Civil War of the 1860s. Any external threat to the American continent posed every bit the same physical and emotional threat for Southern farmers and Northern factory workers, white or black, as for the employer or business classes.

For many Israeli Arabs, this is, of course, very different. They identify with the Palestinians in Gaza and the West Bank not simply because they are co-religionists or of the same language group. In many cases, they come from the same extended families. It is largely a historical accident that some of the Arabs continued to live in Israel post-1948 and others fled.

Even more to the point, the emerging “Palestinian narrative” of forced exodus, non-repatriation, Israeli state takeover of abandoned property, and subjugation by the Jewish majority—seems to be one shared by Israeli Arab political and intellectual elites and perhaps by Israeli Arabs as a whole.

## VI. THE AREA OF DEFICIT: SOCIAL EQUALITY

On the plane of legal or formal equality, Israel compares quite favorably with other nations. This is a testament to Israeli democracy—given the continuing security threats to the nation and the fact that increasingly the political and other leaders of its Arab minority voice sympathy with the aspirations of those with whom Israel is in military conflict.

It is undoubtedly true, however, in areas of public accommodations and government funding of local communities and their development projects that significant disparities continue and must be addressed.<sup>24</sup>

The social dimension is where further work is critical. It is not enough to produce Israeli Arab lawyers, sociologists, and polemicists; they must be afforded access to socially productive occupations so that they can enjoy the benefits of social and economic participation in the larger society.

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<sup>24</sup> For example, development projects ignoring the interests of Bedouin residents of Israel’s Negev Desert has resulted in widespread discontent in this important community. See Yaroslav Trofimov, *Israel’s Bedouin Challenge: Discontent Spreads in the Negev*, WALL STREET JOURNAL (July 6, 2017), <https://www.wsj.com/articles/israels-bedouin-challenge-discontent-spreads-in-the-negev-1499333400> (indicating that new tensions and conflict are growing between Israelis and Negev Bedouin, who are Muslim Arabs holding Israeli citizenship, regarding land and development in Israeli’s southern underbelly).

## VII. EDUCATION AND HOUSING

Israel must identify where the jobs are and where the opportunities for promotion are, and actively train and help place its Arab graduates for those jobs. One focus must be the quality and the funding of primary and secondary schools serving Arab communities.

Employment in growing areas of the Israeli economy must be a second focus. Israeli Arabs are employed in the service economy and in public employment, but they appear to be missing from the high-tech economy, the mainspring of Israel's growing wealth. Israel is known throughout the world as the “start up” nation,<sup>25</sup> and it is in the high-tech sectors where these graduates should be encouraged to work—and entry into those workplaces should be encouraged as a matter of public policy.

Significant improvement on the employment side will not happen without what we call “affirmative action” in the U.S. context. The Israeli government should require all major employers, especially companies bidding for government contracts, to analyze the extent to which they are under-utilizing available, qualified Israel Arab workers and to adopt recruitment goals for hiring Arab graduates and promotion goals for advancing Arab workers to management positions.<sup>26</sup> A special focus on female Arab workers would be particularly important because employment can help unlock social barriers maintained in the home.

Housing is a more difficult agenda item. Even in the United States, with the best laws in the world, residential segregation is common. But slow, uneven progress is being made. The normative principle has to be upheld that every citizen has a right to live wherever they wish if they have the economic means. That some towns are predominantly Jewish or Arab is not necessarily problematic provided it is made clear by government and in public spaces that all are welcome to seek residence on the area and that

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<sup>25</sup> See generally DAN SENOR & SAUL SINGER, *START-UP NATION: THE STORY OF ISRAEL'S ECONOMIC MIRACLE* (2009) (detailing how Israel has become the “start up” nation).

<sup>26</sup> This was the approach initiated by U.S. President Lyndon Baines Johnson in his Executive Order 11246, which continues to this day to be a principal driver of U.S. affirmative action. Exec. Order No. 11246, 30 Fed. Reg. 12319 (Sept. 28, 1965). It appears that with the Israeli's government's Resolution 922 in December 2015 that the nation is beginning to embark on a serious effort along these lines. For recommendations on how to advance this initiative, see Nitzan Tenami & Roi Grufi, *Government Tenders: The Key to a Breakthrough in the Employment of Arabs in the Private Sector*, SIKKUY: THE ASSOCIATION FOR THE ADVANCEMENT OF CIVIC EQUALITY (Oct. 2016).

local decision-making authority is representative of the demographic composition of the town.

For Israel's educated Arabs, in particular, the state can and must do more to create a prospect of life that broadens the horizon of the possible. If people believe that no matter how hard they work, no matter how well they do in school and in their jobs they are stuck in the old villages or confined to a few "mixed" cities like Jaffa or in the Galilee, they will be more likely to succumb to a militant diagnosis of their predicament.

On a going-forward basis, government support for new housing, new residential construction should be targeted to advance normalization/integration goals. Resistance to residential integration is minimized when new housing is being offered as part of the package. Residential opportunities for Arab citizens should be made a part of regional development plans and funding, with Arab involvement in the planning process.

### VIII. NATIONAL SERVICE

It may be regarded as an admirable feature of Israeli policy that for its first sixty years, Muslim Arab citizens have been exempted from compulsory military service. This is on one level a showing of respect for Arab sensibilities. Especially, given the importance of national service to the identity of Israelis and to the employment and business opportunities of Israelis, this is an exclusion that needs to be re-evaluated. National service is both an obligation of citizenship in Israel (where military service is the norm) and a critical marker for social and economic advancement. Even if military service is unpalatable to some (or perhaps many) of its Israel's Arab citizens, compulsory national non-military service should not raise similar concerns.<sup>27</sup>

Change here should be part of a broad societal decision that *all* citizens, Jewish, Arab, Haredi and others, give at least two years of their lives to national service, to the Sherut Leumi if they do not wish to serve in the Israeli Defense Force. Commitment to the equal obligations of citizens will further social acceptance of equality in the rights of citizens. Once

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<sup>27</sup> It is understandable that some might say national services should await realization of full opportunity for Israeli Arabs. This is a "chicken and egg" problem. The willingness of the larger society to break down barriers to Israeli Arab advancement is likely to be enhanced by Israeli Arab willingness to serve the nation even in a nonmilitary capacity.

national service is a requirement for all citizens, discrimination on the basis of prior national military service should be made unlawful, which itself should open employment opportunities.

## IX. ELECTORAL REFORM

Israel has a proportional representation (PR) voting system<sup>28</sup> on steroids. The entire country is treated as one nationwide electoral district and people vote on the basis of a closed party list.<sup>29</sup> The result is inevitable political instability; no party gains a majority and the small parties have enormous leverage as power brokers.

A major problem with the system is that it generates highly ideological divisions within the Knesset.<sup>30</sup> Members of Parliament (MPs) see themselves as representatives of ideologies rather than of people and neighborhoods. Because of the splintering of political parties, coalitions with fringe groups are often required to form a government.

For Israeli Arab MPs, in particular, the system has promoted a focus on Palestinian nationalist aspirations, rather than the more quotidian needs of the residents of Arab districts. These legislators cannot be silenced, consistent with free expression, but a different orientation can be encouraged, as a matter of electoral design, whereby MPs represent constituent interests in geographic districts rather than ideological coalitions.

There is no perfect system of electoral representation but more thought needs to be given to enhancing constituency representation in Israeli politics.<sup>31</sup> Political representatives need to be accountable, in the first instance and in the final analysis, to people in their districts, to improving the day-to-day lives of those people.

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<sup>28</sup> GIDEON RAHAT, THE POLITICS OF REGIME STRUCTURE REFORM IN DEMOCRACIES: ISRAEL IN COMPARATIVE AND THEORETICAL PERSPECTIVES 47-8 (2008).

<sup>29</sup> *Id.* at 48.

<sup>30</sup> Yohanan Plesner & Gideon Rahat, *Reforming Israel's Political System: A Plan for the Knesset*, THE ISRAEL DEMOCRACY INSTITUTE 9 (2015) (indicating that Israel's "political system has become extremely fragmented"; "[t]he current ruling party has a mere quarter of the seats in the Knesset. The two largest parties combined hold less than half of the seats in the Knesset.").

<sup>31</sup> District-based electoral reform proposals for Israel have been surveyed. See RAHAT, *supra* note 28, at 79, 101-102 (discussing the three prominent electoral reform initiatives of the 1980s that "combine the existing nationwide closed-list system with new elements of local representation and added personal elements as well").

There are serious issues of design and implementation: How many districts can be drawn in such a small country? Should they be single- or multi-member districts? What about political gerrymandering of districts? How do we ensure that compact communities like Haredim and the Arabs do not have their current level of representation diluted? These are matters for another day but they are not insoluble.

## X. POLITICAL SYMBOLISM AND INCLUSION

In Australia, it is common for politicians to open public meetings with an acknowledgment of the contributions of native, indigenous Australians.<sup>32</sup> This is no doubt a form of political theater: no jobs are created or additional resources distributed. But it is helpful to remind minorities, for the Israeli majority to remind itself, that they all live in an inclusive, democratic society, even if the country is also committed to serving as a haven for Jews and to promote Jewish culture.<sup>33</sup> Israel is a nation for all Jews, but it is also a nation for all who live within it, Jews and non-Jews alike.

## CONCLUSION

James Baldwin wrote of “the fire next time” as a wakeup call for white American to address the exclusion of African-Americans from the economic and social levers of the larger society. In a similar sense, Israel needs to address more seriously than it has its greatest domestic challenge—being not only a Jewish state but truly a state for all of its citizens dedicated to promoting their welfare.

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<sup>32</sup> See, e.g., *Working with Aboriginal People and Communities: A Practice Resource*, NSW DEPARTMENT OF COMMUNITY SERVICES 14 (2011), available at <http://www.careersaustralia.com.au/storage/2011Working%20with%20Aboriginal%20People%20and%20Communities.pdf> (“It is now common to attend a meeting, conference or community gather where proceedings begin with either: an acknowledgement of land or original custodians by the first speaker; and/or a Welcome to Country which is performed by an Aboriginal Elder or leader who is from the community in which you are meeting.”).

<sup>33</sup> A modification of the national anthem to reflect the presence and inclusion of Arab Israelis in the polity would not seem infeasible. Street and town signs through the country should be bilingual, as many already are. Arab cultural achievements could be highlighted especially where Arab populations are concentrated.