

October 31, 2019

Submission of the Institute for NGO Research in advance of the 100th Session Review of Israel

Introduction

The Institute for NGO Research¹ submits this report in advance of the 100th session meeting for the review of Israel and its compliance with the Convention on the Elimination of all Forms of Racial Discrimination. We hope that this submission will aid the Committee in its preparation of its Concluding Observations.

This submission focuses on Israel's adherence to the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD). We believe it is important to provide the Committee with certain contextual information that is necessary in order to conduct a credible and productive review. In particular, many actors (particularly NGOs tied to discriminatory BDS [boycott, divestment, and sanctions] campaigns² and/or the Popular Front for the Liberation of Palestine terror organization) contributing to the Committee have exploited the provisions of the ICERD and the treaty review process as part of an ongoing effort to attack the legitimacy of Israel and denigrate Jewish self-determination. This campaign is itself a form of racism in violation of the ICERD and must be rejected by the CERD Committee.

Israel: A Democratic Jewish State

As a highly heterogeneous democratic society, the assessment of issues related to discrimination in Israel are complex and are best examined in a number of different dimensions. Israel defines itself as the nation-state of the Jewish people, similar to the definitions of other religious democracies, such as Greece,³ Denmark,⁴ the United Kingdom of Great Britain and Northern Ireland,⁵ Pakistan,⁶ Bangladesh,⁷ Costa Rica,⁸ and Bhutan.⁹

¹ Members of the Institute's Advisory Board include Elliott Abrams, Senior Fellow for Middle Eastern Studies at the Council on Foreign Relations; former Canadian Ambassador to Israel, Amb. Vivian Bercovici; Hon. Michael Danby, former MP Australian Labor Party; Harvard Professor Prof. Alan Dershowitz; Canadian Senator, Hon. Linda Frum; Colonel Richard Kemp, former commander of British forces in Iraq and Afghanistan; Douglas Murray, Director of the Centre for Social Cohesion; former Member of Italian Parliament, Hon. Fiamma Nirenstein, UCLA Professor and President of the Daniel Pearl Foundation, Prof. Judea Pearl; US Jurist and former Legal Advisor to the State Department Judge Abraham Sofaer; Dr. Einat Wilf, former member of Knesset and advisor to Shimon Peres; Harvard Professor Prof. Ruth Wisse; R. James Woolsey, former US Director of Central Intelligence; and Israeli Supreme Court Justice, Justice Elyakim Rubinstein.

² NGO Monitor, "BDS Condemnation by World Leaders," <https://www.ngo-monitor.org/key-issues/bds/bds-condemnation-by-world-leaders/#worldleadersthathavecondemnedbds>

³ Constantine P. Danopoulos, "Religion, civil society, and democracy in Orthodox Greece," *Journal of Southern Europe and the Balkans*, Vol. 6. No. 1 (April 2004):

<https://www.tandfonline.com/doi/abs/10.1080/1461319042000187256?journalCode=cjsb19>

⁴ Denmark, "Religion in Denmark," <http://www.denmark.net/denmark-guide/religion-denmark/#targetText=The%20official%20religion%20in%20the,religions%20recognized%20by%20the%20constitution.>

⁵ British Council, "Religion," <https://study-uk.britishcouncil.org/moving-uk/student-life/religion#targetText=The%20UK's%20official%20religion%20is,%2C%20Sikhism%2C%20Judaism%20and%20Buddhism.>

The Balfour Declaration¹⁰ (1917) and the Mandate of the League of Nations¹¹ (1920) promised to establish a national home for the Jewish People. On this basis, UNGA Resolution 181 of November 29, 1947, regarding the partition of territory under the British Mandate, refers to the establishment of a “Jewish State.” In this respect, Israel’s Declaration of Independence of May 14, 1948 states that “the Land of Israel was the birthplace of the Jewish people. Here their spiritual, religious and political identity was shaped. Here they first attained to statehood, created cultural values of national and universal significance...After being forcibly exiled from their land, the people kept faith with it throughout their dispersion...”¹²

The Declaration also pledges to “foster the development of the country for the benefit of all its inhabitants” and commits the country to promote “freedom, justice and peace as envisaged by the prophets of Israel” to “**ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex ... [and] guarantee freedom of religion, conscience, language, education and culture...**” (emphasis added).

On this basis, Israel is a democracy, providing equal voting rights, access to institutions, prohibition of discrimination in employment, and other such dimensions in compliance with Article 5 of ICERD. For historical reasons related to unresolved fundamental disagreements, including the complexity of the social fabric as discussed below, Israel does not have a formal written constitution and instead relies on a series of Basic Laws that establish the foundational aspects of the constitutional order. These include the 1992 “Basic Law: Human Dignity and Liberty,” establishing that “basic human rights in Israel are based on the recognition of the value of the human being, the sanctity of his life, and his being a free person”; “Basic Law: Freedom of Occupation,” guaranteeing the “right of every citizen or inhabitant to engage in any occupation, profession or trade...”; and “Basic Law: The Knesset,” dealing with the electoral system, the right to vote and be elected, etc.”¹³

⁶ World Atlas, “Religion in Pakistan,” <https://www.worldatlas.com/articles/religious-beliefs-and-freedoms-in-pakistan.html>

⁷ Bangladesh, “Religion in Bangladesh, Culture, Churches,” <https://www.bangladesh.com/culture/religion/>

⁸ Costa Rica, “Religion in Costa Rica,” <https://www.costarica.com/culture/religion-in-costa-rica>

⁹ Bhutan, “Religion,” <http://www.bhutan.com/religion>

¹⁰ Arthur James Balfour, “The Balfour Declaration,” Israeli Ministry of Foreign Affairs, November 2, 1917: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20balfour%20declaration.aspx>

¹¹ League of Nations, “The Mandate for Palestine,” Israel Ministry of Foreign Affairs, July 24, 1922: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20mandate%20for%20palestine.aspx>

¹² Israel Ministry of Foreign Affairs, “Declaration of Establishment of State of Israel,” May 14, 1948: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration%20of%20establishment%20of%20state%20of%20israel.aspx>

<https://mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Establishment+of+State+of+Israel.htm>

¹³ The Knesset, “Basic Laws,” <https://m.knesset.gov.il/EN/activity/Pages/BasicLaws.aspx>

Jewish Self-Determination

Unfortunately, since the founding of Israel in 1948, the discourse of international law and human rights and associated institutions have been used to widely attack the legitimacy of the Jewish State and to intimidate its Jewish citizens. In these contexts, the right of the Jewish people to self-determination, Zionism (the movement founded to realize this right), and the modern State of Israel are often characterized as threats to the post-World War II international legal order, on a par with the contemporary world's worst evils – racism, colonialism, imperialism, and apartheid. The nation-state of the Jewish people and their right to self-determination is characterized as illegitimate and illegal, and Israel is portrayed as the primary violator of international norms, based on false claims, extreme double standards, and highly disproportionate focus. Actual racist practices of surrounding Arab states – such as slavery, extreme gender and religious discrimination, and segregation – were ignored, creating an entirely artificial framework in which to attack Israel.¹⁴

These efforts represent the latest manifestation of antisemitism. As Former Swedish Deputy Prime Minister Per Ahlmark remarked, while “anti-Zionists accept the right of other peoples to national feelings and a defensible state... they reject the right of the Jewish people to have its national consciousness expressed in the state of Israel and to make that state secure.” According to Ahlmark, “anti-Semites of different centuries had always aimed at destroying the then center of Jewish existence... today, when the Jewish State has become a center of identity and a source of pride and protection for most Jews, Zionism is being slandered as a racist ideology.”¹⁵

Importantly, in his report published on September 20, 2019,¹⁶ and in his remarks to the General Assembly on October 17, 2019, the UN Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, clearly explains this phenomenon:

“17. The Special Rapporteur also takes note of numerous reports of an increase in many countries of what is sometimes called “left-wing” antisemitism, in which individuals claiming to hold anti-racist and anti-imperialist views employ antisemitic narratives or tropes in the course of expressing anger at the policies or practices of the Government of Israel. In some cases, individuals expressing such views have engaged in Holocaust denial; **in others, they have conflated Zionism, the self-determination movement of the Jewish people, with racism**, claimed that Israel does not have a right to exist and accused those expressing concern about antisemitism of acting in bad faith. . . . He

¹⁴ Gerald M. Steinberg and Anne Herzberg, “The Role of International Legal and Justice Discourse in Promoting the New Antisemitism,” in *Anti-Zionism and Antisemitism: The Dynamics of Delegitimization* edited by Alvin H. Rosenfeld, September 1, 2019:

http://www.iupress.indiana.edu/product_info.php?products_id=809541

¹⁵ Manfred Gerstenfeld, *The War of a Million Cuts: The Struggle against the Deligitimization of Israel and the Jews, and the Growth of New Anti-Semitism*, Jerusalem Center for Public Affairs, May 12, 2015:

<https://www.amazon.com/War-Million-Cuts-Deligitimization-Anti-Semitism/dp/1618613413> (p31).

¹⁶ “Report of the Special Rapporteur on freedom of religion or belief,” September 20, 2019: <https://undocs.org/A/74/358>

further recalls that the Secretary-General has characterized “attempts to delegitimize the right of Israel to exist, including calls for its destruction” as a contemporary manifestation of antisemitism.”¹⁷

Too often, NGOs purporting to have a human rights mandate, as well as certain entities with UN observer status, have attempted to exploit the ICERD in order to advance the discredited antisemitic canard that Zionism is racism. Once again, at least four NGOs in a joint submission have also done so for the current session, as detailed below.¹⁸

In order to aid the Committee in distinguishing between legitimate criticisms of Israeli policies from those that are part of the campaign to denigrate Jewish self-determination and Israel’s legitimacy, we urge the Committee to refer to the International Holocaust Remembrance Alliance (IHRA) working definition of antisemitism. As recommended by Special Rapporteur Shaheed in his report,

“The working definition of antisemitism developed by the International Holocaust Remembrance Alliance can offer valuable guidance for identifying antisemitism in its various forms...the Special Rapporteur recommends its use as a critical non-legal educational tool that should be applied in line with guidance provided in the Rabat Plan of Action, in general comment No. 34 (2011) of the Human Rights Committee and in general recommendation No. 35 (2013) of the Committee on the Elimination of Racial Discrimination.”¹⁹

As of October 2019, IHRA has 33 country members, 8 observers, and 7 permanent international partners, including Serbia, the Claims Conference, the European Union’s Agency for Fundamental Rights (FRA), International Tracing Service, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), UNESCO, and the Council of Europe.²⁰ The IHRA working definition has been adopted by 20 countries (and rapidly growing) around the world, including the UK, Canada, Austria, Australia, Bulgaria, Germany, Lithuania, Romania, and Macedonia.²¹ The United States State Department Definition of antisemitism, adopted on June 8, 2010, is virtually identical. In 2017, IHRA was adopted by the European Parliament and in December 2018 by the Justice and Home

¹⁷ Ahmed Shaheed, “Antisemitism is toxic to democracy and must be addressed, says expert,” October 17, 2019: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25160&LangID=E>

¹⁸ Al-Haq – Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies (CIHRS), and Habitat International Coalition (HIC) – Housing and Land Rights Network (HLRN), “JOINT SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION FOR THE LIST OF THEMES ON ISRAEL’S SEVENTEENTH TO NINETEENTH PERIODIC REPORTS,” September 5, 2019: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fICERD%2fNGO%2fISR%2f37259&Lang=en

¹⁹ “Report of the Special Rapporteur on freedom of religion or belief,” September 20, 2019: <https://undocs.org/A/74/358>

²⁰ International Holocaust Remembrance Alliance, “Permanent International Partners,” <https://www.holocaustremembrance.com/membership/permanent-international-partners>

²¹ International Holocaust Remembrance Alliance, “Working Definitions and Charters,” <https://www.holocaustremembrance.com/working-definitions-and-charters>

Affairs Council.²² On June 4, 2019, Secretary General of the Organization for American States, Luis Almagro, voiced his support for the IHRA definition and its adoption by the OAS.²³

The IHRA definition provides multiple examples where criticisms of Israel cross the line into antisemitism:

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterise Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.

It is no surprise that several NGOs that regularly and blatantly cross these lines seek to malign the IHRA definition in their submissions to the Committee.²⁴ Indeed, many other reports, activities, and statements made by these organizations would fall under the IHRA definition of antisemitism. In fact, an image posted by one of these NGOs was actually highlighted as an egregious example by Special Rapporteur Shaheed.

Israeli Diversity

With a population of just over 8.5 million citizens (according to Israel's Central Bureau of Statistics), 75% of Israel's population is Jewish and 21% is Arab, with the remaining 4% falling into the category of "other" – encompassing non-Arab Christians, non-Arab Muslims, and/or those with no religious or ethnic background.²⁵ Allegations of discrimination are routinely addressed by the courts, and when claims are found to be justified, redress is ordered. For example, the courts, as well as government commissions and civil society reports, have substantiated claims of racism of some minority groups, including in employment and police action against Ethiopian Jews. Remedial measures have included affirmative action and cultural sensitivity training programs.

²² European Commission, "Combating Antisemitism," October 10, 2019: https://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=50144

²³ Aaron Bandler, "Organization of American States Leader Announces Support for IHRA Definition of Anti-Semitism," *Jewish Journal*, June 5, 2019: <https://jewishjournal.com/news/nation/299597/organization-of-american-states-leader-announces-support-ihra-definition-of-anti-semitism/>

²⁴ Al-Haq – Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies (CIHRS), and Habitat International Coalition (HIC) – Housing and Land Rights Network (HLRN), "JOINT SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION FOR THE LIST OF THEMES ON ISRAEL'S SEVENTEENTH TO NINETEENTH PERIODIC REPORTS," September 5, 2019: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fISR%2f37259&Lang=en

²⁵ World Population Review, "Israel Population 2019," October, 28, 2019: <http://worldpopulationreview.com/countries/israel-population/>

Moreover, while Israel is by definition a Jewish State, the individuals and communities who identify themselves as Jewish in Israel (approximately half of the total Jewish population in the world) use a variety of ways to define this identity. These include a shared cultural heritage, customs, tradition, sacred texts, biblical language (in most cases, Hebrew), religious identity, and family and community affiliations. Thus, efforts to confine Jewish identity as reflected in the Israeli context to a purely religious dimension are mistaken and ignore these other important components.

Recognizing Israel's adherence to Article 5 of ICERD, as of Israel's September 2019 elections, the "Joint List" (made up of the four Arab Knesset parties²⁶) holds 13 seats and received 470,211 votes, making it the third largest party in the Knesset.²⁷ Several other minority groups are represented in Israel's 22nd Knesset, including members of the Druze and Ethiopian Jewish communities belonging to the Blue and White, Likud, or Israel Home Party.²⁸ Arabs serve as judges in the Israeli court system, including on Israel's Supreme Court.²⁹ Many members of Israel's diverse minority community also serve as high-ranking officers in the Israeli army³⁰ and as diplomats.³¹ Arabs, as well as these other minorities, are integrated into all aspects of Israeli society. Public facilities such as hospitals, buses, courts, and restaurants are open to all, irrespective of race or ethnicity.

Israel's ethnic mix and geographical and political context does create complex challenges. As noted in Article 2.5 of ICERD, "each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division." Due to political sensitivities, minority populations such as Israel's Arab and some Bedouin citizens, and the Ultra-Orthodox Jewish community, are exempt from the mandatory military service or the national service framework. As a result, these populations fail to receive many of the benefits afforded to post-military citizens, leading to allegations of discrimination. It is important to note, however, that increasing numbers of these populations elect to serve in the IDF, with approximately 400-500 Bedouin joining the IDF as volunteers each year and "dozens" of Israeli Arabs (Muslims and Christians) too drafting into the army.^{32,33,34}

²⁶ The Israel Democracy Institute, "The Joint List: Hadash, Ra'am, Balad, Ta'al," <https://en.idi.org.il/israeli-elections-and-parties/parties/the-joint-list/>

²⁷ Ibid; Natan Sachs, "The End of Netanyahu's Unchecked Reign," *The Atlantic*, September 29, 2019: <https://www.theatlantic.com/ideas/archive/2019/09/israel-steps-back-two-brinks/598384/>

²⁸ The Knesset, "Current Knesset Members of the Twenty-Second Knesset," https://knesset.gov.il/mk/eng/MKIndex_Current_eng.asp?view=1

²⁹ The State of Israel, The Judiciary Authority, Supreme Court, "Justices and Registrars of the Supreme Court," <https://supreme.court.gov.il/sites/en/Pages/Justices.aspx>

³⁰ Judah Ari Gross, "Kamil Abu Rokon named Israel's next military liaison to Palestinians," *Times of Israel*, December 17, 2017: <https://www.timesofisrael.com/kamil-abu-rokon-named-israels-next-military-liaison-to-palestinians/>

³¹ Itamar Eichner, "Foreign Ministry appoints first Arab Christian diplomat as ambassador," November 19, 2018: <https://www.ynetnews.com/articles/0,7340,L-5408979,00.html>

³² TOI Staff, "Army drive aims to boost number of Bedouin soldiers," October 15, 2019: <https://www.timesofisrael.com/army-drive-aims-to-boost-number-of-bedouin-soldiers/>

³³ Paul Goldman, "Arab Israelis Are Joining the IDF in Growing Numbers: Officials," *NBC News*, February 26, 2017: <https://www.nbcnews.com/news/world/arab-israelis-are-joining-idf-growing-numbers-officials-n724586>

Many, including Palestinian residents of East Jerusalem, are also now choosing to do national service, particularly within their communities.³⁵

Additionally, at the initiative of Druze leaders, compulsory military service was mandated in 1956 for these members of Israel's minority community, with leaders in the Druze community seeking to further their own influence as well as the following objectives:

1. "To improve the situation of the Druze through army service.
2. To secure economic opportunities for many Druze families who were very poor.
3. To help the Druze achieve equality with the Jews.
4. To serve as an example to other Arab minority groups in Israel and to encourage them to join the IDF.
5. To improve the social and political status of Arab minority groups and to encourage the first steps toward integration within the broader spheres of Israeli life."³⁶

Citizens and Non-Citizens

Several of the NGO submissions to CERD level specious charges of racism against Israel. For instance, in a submission by Al-Haq, BADIL, Habitat International Coalition, and Cairo Institute for Human Rights, the groups claim that "Israel has entrenched policies and practices of racial discrimination, racial segregation, and apartheid with respect of the Palestinian people as a whole."³⁷

The NGO claims of "racial segregation" and "apartheid" are false, inflammatory, and highly offensive. These NGOs grossly portray legal differences between citizens and non-citizens, as well as the Arab-Israeli conflict more generally, as motivated by alleged Jewish race-hatred of Arabs. They also blatantly ignore the history of armed conflict, security challenges posed by Palestinian terrorism, and the competing national and territorial claims at issue.

Article 1.2 of ICERD clearly states that the "Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a state party to this Convention between citizens and non-citizens." Moreover, non-citizen, non-resident Palestinians living in the West Bank and Gaza fall under the legal jurisdiction of the Palestinian Authority and Hamas. Were Israel to apply its local laws to this population, these same NGOs would accuse Israel of annexing the territory and illegally imposing its jurisdiction.

³⁴ IDF, "Giving Motivated Soldiers a Chance," June 17, 2018: <https://www.idf.il/en/minisites/soldiers-of-the-idf/giving-motivated-soldiers-a-chance/>

³⁵ <https://www.timesofisrael.com/more-arab-israelis-join-national-service-discovering-state-benefits-patriotism/>

³⁶ Zeidan Atashi, "THE DRUZE IN ISRAEL AND THE QUESTION OF COMPULSORY MILITARY SERVICE," *Jerusalem Center for Public Affairs*, October 15, 2001: <http://www.jcpa.org/jl/vp464.htm>

³⁷ Al-Haq – Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies (CIHRS), and Habitat International Coalition (HIC) – Housing and Land Rights Network (HLRN), "JOINT SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION FOR THE LIST OF THEMES ON ISRAEL'S SEVENTEENTH TO NINETEENTH PERIODIC REPORTS," September 5, 2019: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fISR%2f37259&Lang=en

Detailed refutations of the NGO accusations and analysis of their political objectives can be found in numerous academic and other publications.³⁸ For example, Professor Irwin Cotler,³⁹ a member of Nelson Mandela's defense team who also served as Attorney General of Canada, wholly rejects accusations Israeli policies are motivated by racial animus:

“To say that Israel is an apartheid state is a slanderous remark. Unlike apartheid South Africa, **Israel is a democratic state with equal rights, a free press, an independent judiciary, and a vibrant civil society with active NGOs.** None of that was characteristic of apartheid South Africa. The slander affects that anti-apartheid struggle and ‘is a form of apartheid denial’” (emphasis added).⁴⁰

Additionally, in Israel, there is no rule of a racial minority over another racial majority, with the Israeli Jewish population comprising peoples from many nationalities and ethnicities. Equal protection is guaranteed by law and there is no law *requiring* discrimination as there was in apartheid South Africa. Despite their deliberate rejection of Israeli citizenship on political grounds, East Jerusalem Palestinians are permanent residents who can vote in municipal elections, receive full health and social benefits, gain employment in civil service, enroll in Israeli universities, purchase property, and travel freely throughout Israel.

In the West Bank, most Palestinians are under the jurisdiction of the Palestinian Authority (PA) as per a series of negotiated and internationally guaranteed and endorsed agreements between the Palestine Liberation Organization and the Israeli government (the Oslo Accords). The Palestinian Authority has its own government, parliament, ministries, diplomatic representatives, social services, courts, police force, and more. The autonomy arrangements in the West Bank were fully voluntary, arrived at by negotiation between the State of Israel and the internationally recognized “sole representative” of the Palestinian people, and achieved without prejudice to the Arab citizens of Israel. No Israeli-Arab citizens were forced to become residents or citizens of the Palestinian Authority; and each year, increasing numbers of Palestinians living in East Jerusalem apply for and have received Israeli citizenship with the process undergoing significant improvements.⁴¹

Under the Oslo Accords,⁴² and as agreed to by the Palestinian leadership, Israel retains certain powers in parts of the West Bank, primarily security control and territorial jurisdiction

³⁸ For example, see Robbie Sabel, “The Campaign to Delegitimize Israel with the False Charge of Apartheid,” *Jewish Political Studies Review*, Vol.23, No. 3/4 (Fall 2011), p18-31:

https://www.jstor.org/stable/41575857?seq=1#page_scan_tab_contents; Gerald M. Steinberg, “NGOs Make War on Israel,” *Middle East Quarterly*, Summer 2004, p13-25: <https://www.meforum.org/633/ngos-make-war-on-israel>.

³⁹ Raoul Wallenberg Centre for Human Rights, “Irwin Cotler,” <https://www.raoulwallenbergcentre.org/irwin-cotler>

⁴⁰ Paul Lungen, “Cotler Rejects ‘Israeli Apartheid,’ – in South Africa,” *The Canadian Jewish News*, March 2, 2012: <https://www.cjnews.com/news/cotler-rejects-israeli-apartheid-south-africa>

⁴¹ <https://www.timesofisrael.com/israel-to-dramatically-shorten-east-jerusalem-ites-path-to-citizenship-report/>

⁴² Israel Ministry of Foreign Affairs, “The Israeli-Palestinian Interim Agreement,” September 28, 1995: <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20israeli-palestinian%20interim%20agreement.aspx>

over areas without large Palestinian population. To be sure, Israel's security control means that Palestinians residing in the West Bank involved in terrorism may be subject to the Israeli military court system. However, more than 95% of the West Bank Palestinian population is under the jurisdiction of the PA. Notably, Palestinians also have the ability to petition the Israeli Supreme Court.

Regarding Gaza, in 2005, Israel withdrew all military and civilian presence. Since 2007, Gaza has been under the sole control of the Hamas terrorist organization, with involvement of the Palestinian Authority. Israel has no control over domestic policies implemented by the Hamas government.

Terrorism

As mentioned, several of the NGO submissions to the Committee completely erase the context of Palestinian terrorism and ongoing attacks against Israel's civilian population. Hamas, the Popular Front for the Liberation of Palestine (PFLP), Islamic Jihad, and other terror groups subject Israeli population centers to suicide bombs, kidnappings, continual rocket and mortar attacks, shooting attacks, stabbings, fire bombs, fire kites, intentional burning of agricultural land and thousands of tires to destroy the environment. Moreover, these groups promote antisemitic incitement, hatred, and calls for genocide on a routine basis.

Under Article 5b of the ICERD, State parties undertake to "guarantee" the right of "security of person and protection...against violence or bodily harm, whether inflicted by government officials or by any individual group or institution." It is blatantly false for the NGOs to claim, as they do, that Israel's policies towards Gaza are motivated by racism, rather than efforts to protect its population from the attacks perpetrated by Palestinian combatants. In fact, as was demonstrated during the August 2019 CERD review of the Palestinian Authority, it is the PA, Hamas, and the groups under their control, not Israel, that are motivated by racial animus.

Israel's Bedouin Population

The Bedouin are a tribal nomad group of communities dispersed throughout the region, with a shared identity and culture, and composed of different tribes located in Egypt (particularly in the Sinai peninsula), Israel, the West Bank, Jordan, Syria, and elsewhere. For this submission, the analysis is limited to the Bedouin citizens of Israel, estimated to number 250,000.⁴³ It is relevant to note that Bedouins identify with their tribe, and as articulated in an article by the late Moshe Arens in *Haaretz*:

"The millions of Bedouin living throughout the Middle East are obviously not Palestinians. Not the Bedouin in Saudi Arabia, and not the Bedouin in the Sinai. And the Bedouin in Jordan – Jordanians? The first loyalty of Bedouin is believed to be to their tribe. That is also the case of the Bedouin living in the Negev. But for the past years they have been subjected to a campaign by the Islamic League from the north,

⁴³ Ben Sales, "Despite hardships, some Bedouins still feel obligation to serve Israel", JTA, August 20, 2012 <http://www.jta.org/2012/08/20/israel/despite-hardships-some-bedouins-still-feel-obligation-to-serve-israel>

which is trying to convince the Bedouin to turn to Islam, to be hostile to the State of Israel, and to consider themselves to be Palestinians, or at the very least, Palestinian Bedouin. This serves an obvious political purpose: to spread the 'Palestinian' umbrella over all Arabic-speaking citizens of the State of Israel."⁴⁴

Indeed, numerous NGOs that are also involved in the campaign to denigrate Jewish self-determination have adopted the politicized narrative of referring to the Bedouin population as "Palestinian Bedouin."⁴⁵

The Negev Bedouin, based in Israel's southern desert region, are thus the subjects of frequent allegations related to inequality and discrimination. Attempts to label the Negev Bedouin as an indigenous population by NGOs have been rejected as ahistorical and politically motivated,⁴⁶ resulting from ongoing efforts to undermine Israeli sovereignty over the Negev, which constitutes more than half of the country's total land area. Thus, consideration of allegations of discrimination against the Bedouin is difficult to separate from the wider political dispute.

In an article by Kark, Frantzman, and Yahel, the authors demonstrate that the description of Bedouins as "indigenous" is relatively recent and is essentially a political tool in the hands of a few Bedouin, academics, and NGOs. Their allegations regarding Israeli "violations" provide an additional legal route for attacking Israel in international forums. They also enumerate generally accepted parameters of the term "indigenous," and explain why the Bedouins cannot be included in this category: the Bedouin have not resided in the Negev "from time immemorial," as they arrived during the Ottoman rule; the Bedouin "were never sovereign in the area"; and nomadic culture "by definition, precludes permanent attachment to specific territory." Finally, Bedouins are only referred to as "indigenous" in Israel, not in other neighboring countries such as Egypt, Jordan, and Saudi Arabia.⁴⁷

Much of the friction focuses on land ownership issues – as nomads, the Negev Bedouin claim legal title to large tracts of land, which Israel does not recognize. This nomadic lifestyle also comes into conflict with public health and environmental concerns. It is significant to note that Israel has constructed a number of towns in the Negev for the Bedouin population, but efforts to encourage them to relinquish land claims, leave the unrecognized encampments, and accept urban alternatives that would improve their access to services provided by the State have met with little success.

⁴⁴ Moshe Arens, "Are Bedouin Palestinians?" *Haaretz*, July 1, 2013:

<https://www.haaretz.com/opinion/.premium-moshe-arens-are-bedouin-palestinians-1.5289810>

⁴⁵ NGO Monitor, "NGOs and the Negev Bedouin Issue in the Context of Political Warfare," November 6, 2013: [https://www.ngo-](https://www.ngo-monitor.org/reports/ngos_and_the_negev_bedouin_issue_in_the_context_of_political_warfare/)

[monitor.org/reports/ngos_and_the_negev_bedouin_issue_in_the_context_of_political_warfare/](https://www.ngo-monitor.org/reports/ngos_and_the_negev_bedouin_issue_in_the_context_of_political_warfare/)

⁴⁶ The NGO submission goes even beyond this claim asserting that all Palestinians are an "indigenous" population. This characterization makes a mockery of international agreements and efforts to preserve and protect indigenous rights.

⁴⁷ Yahel, H., Kark, R. and Frantzman, S. J. "Are the Negev Bedouin an Indigenous People? Fabricating Palestinian History." *Middle East Quarterly*, Summer 2012, pp. 3-14.

A second source of conflict and accompanying allegations of discrimination results from the Bedouin lifestyle and, in particular, large polygamous families and high birth-rates, coupled with sub-standard health conditions in unrecognized encampments.⁴⁸ Although polygamy is illegal in Israel, authorities have been lax in enforcing the prohibition in order to avoid interfering with Bedouin cultural autonomy.⁴⁹ When efforts are made to confront this practice and enforce the law, Israel is accused of “discrimination.”

The Israeli government has attempted to address the above issues through the establishment of the Goldberg Commission for the Regulation of the Bedouin Settlements in the Negev, which submitted its recommendations in 2009, and the Praver Commission for the implementation of the Goldberg Commission Recommendations, which submitted its recommendations in 2011. The goal of these commissions was, among others, “the formalization of a comprehensive systematic policy which combines handling the land issue and the planning and settlement issue.”

In 2012 Minister Ze’ev (Benjamin) Begin was entrusted with formulating a final draft bill for the implementation of this plan. He conducted a public consultation process that spanned more than three months, and included meetings with individuals, groups, and NGOs. Begin then submitted to the government his policy recommendations for a final bill, in accordance with the citizens’ suggestions, where feasible.

Unfortunately, these compromise policy recommendations were denounced (as they are in the NGO submissions) because they did not accept maximalist Bedouin claims.

Attacks on Israeli Laws

This debate surrounding certain Israeli laws is situated in the context of the ongoing Arab-Israeli conflict and consistent denial of Israel’s legitimacy as the nation-state of the Jewish people. The following examples of commonplace criticisms of Israeli law demonstrate the political nature of the critiques, as opposed to providing evidence of discrimination.

Law of Return

Israel’s 1950 “Law of Return” stipulates that “every Jew has the right to this country as an *oleh* [new immigrant].”⁵⁰ This law is considered to fulfil the core objective of the Jewish State regarding its population and provision of a safe home for the Jewish people.

The NGO Adalah falsely claims that the law “discriminates against Palestinians living in the diaspora” and “denies the right of return to Palestinians who fled or who were forced to flee during the 1948 War... The same legal system grants Jewish absentees the right to citizenship

⁴⁸ Government of Israel, Report on the Impacts of Polygamy on Bedouin families, July 2018, (Hebrew) https://www.gov.il/BlobFolder/generalpage/polygamy_final_report/he/polygamy_final_report.pdf

⁴⁹ Melanie Lidman, “Polygamy is illegal in Israel. So why is it allowed to flourish among Negev Bedouin?”, Times of Israel, 16 February 2016 <https://www.timesofisrael.com/the-sorry-plight-of-bedouin-women-trapped-by-polygamy/>

⁵⁰ The Knesset, “The Law of Return 5710 (1950),” <https://knesset.gov.il/laws/special/eng/return.htm>

and residence in Israel through mechanisms for acquiring citizenship that are based solely on ethnic/religious affiliation.”⁵¹

In contrast, under ICERD Article 1.4’s, “Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination.”

Furthermore, the one-dimensional characterization of the Jewish population as based on an ethnic/religious affiliation repeats the long-stated rejection of the core nationality and cultural components in the definition of Jewish affinity, as discussed above. Several democratic countries including Japan,⁵² Germany,⁵³ Ireland,⁵⁴ and Italy⁵⁵ have processes and legislation that provide for preferred treatment for members of the specific national group living abroad who apply for permanent residence or citizenship, based on ethnicity and/or proof of descent.

Citizenship and Entry Law

Israel’s Citizenship and Entry Law (2003)⁵⁶ was enacted following a series of deadly suicide bombings perpetrated by Palestinians who had received status as residents or citizens by marrying Israelis, thereby automatically enabling them to move freely between Israel and the West Bank.⁵⁷ The law (and a number of court decisions upholding it) changed the pre-existing situation, so that residents of the West Bank and Gaza were no longer entitled to automatic residency permits or citizenship after marrying an Israeli.

⁵¹ Adalah, “NGO Report to the UN Committee on the Elimination of Racial Discrimination in Advance of its List of Themes for the State of Israel,” September 12, 2019: <https://www.adalah.org/uploads/uploads/Adalah%20NGO%20Report%20to%20UN%20CERD%20September%202019%2012.9.2019.pdf>

⁵² Ministry of Foreign Affairs of Japan, “Specified visa: Long-term resident,” July 22, 2015: https://www.mofa.go.jp/j_info/visit/visa/long/visa12.html

⁵³ Federal Ministry of the Interior, Building, and Community, “Dual citizenship - multiple nationality,” German Bund, 2019: https://www.bmi.bund.de/SharedDocs/faqs/EN/themen/migration/staatsang/Doppelte_Staatsangehoerigkeit_Mehrstaatigkeit_en.html

⁵⁴ Government of Ireland “Irish citizenship through birth or descent,” Citizens Information, September 25, 2019: https://www.citizensinformation.ie/en/moving_country/irish_citizenship/irish_citizenship_through_birth_or_descent.html

⁵⁵ Ministero degli Affari Esteri e della Cooperazione Internazionale, “Citizenship,” Government of Italy, 2019: https://www.esteri.it/mae/en/servizi/stranieri/cittadinanza_0.html

⁵⁶ Israel Ministry of Foreign Affairs, “The Citizenship and Entry into Israel Law (temporary provision) 5763-2003,” July 31, 2003: <https://www.mfa.gov.il/MFA/AboutIsrael/State/Law/Pages/Citizenship%20and%20Entry%20into%20Israel%20Law%202003.aspx>

⁵⁷ Israel Ministry of Foreign Affairs, “The Citizenship and Entry Law (Temporary Order), 2003,” March 23, 2005: <https://www.mfa.gov.il/mfa/aboutisrael/state/law/pages/citizenship%20and%20entry%20law%20temporary%20order-%202003.aspx>

Submissions, like Adalah's, ignore this essential context, arguing that "The law bans family unification in Israel between Palestinian citizens of Israel and Palestinians from the OPT, . . . This flagrantly discriminatory law continues to ban family unification in Israel, with certain exceptions, between Palestinian citizens of Israel and their spouses who are residents of the OPT and certain Arab and Muslim countries classified by Israel as 'enemy states,' based entirely on the spouse's nationality."⁵⁸

These claims explicitly ignore the 1,064 Israelis who were killed and 7,462 wounded in Palestinian attacks, precipitating this law.⁵⁹ "The Law is the direct result of 23 murderous terrorist attacks, made possible by the involvement of persons who were granted legal status in Israel based on their marriage to an Israeli citizen, and took advantage of their Israeli ID to pass checkpoints and carry into Israel either suicide bombers or explosives."⁶⁰ The Chair of the Knesset Foreign Affairs and Defense Committee, Member of Knesset Avi Dichter, referred to 13 terror attacks "committed by Palestinians who are originally residents of Judea, Samara or Gaza, and hold an Israeli identification card due to family reunification. Twice as many terror attacks, 26, were committed by Palestinians with a similar status over the past three years."⁶¹ Furthermore, critics often fail to note that the law does allow for Israeli residency and citizenship, based on specific circumstances.

In addition, most countries do not grant automatic citizenship or even residency rights to non-nationals as a result of marriage to a citizen, nor is such a right found in any international legal instrument. The "right to family life"²³ does not, as claimed by NGOs, include the right to automatic citizenship or the right to live in a particular country. Moreover, it does not trump higher order rights such as the right to life. Other democratic nations have similar laws in the cases of marriages between citizens and non-citizens, and granting of citizenship or residency is rarely automatic. In Denmark, applicants in such cases are required to fulfill "integration requirements," including attending classes, Danish language assessments, and providing a signature of a declaration that "you will actively participate in your efforts to learn Danish and to integrate into Danish society."⁶² In France, only spouses and minor children of French nationals are eligible for citizenship under family reunification and require a "degree of knowledge of the language and values of the Republic." Once an applicant passes this exam, they must then undertake two months of French "language and values

⁵⁸ Adalah, "NGO Report to the UN Committee on the Elimination of Racial Discrimination in Advance of its List of Themes for the State of Israel," September 12, 2019: <https://www.adalah.org/uploads/uploads/Adalah%20NGO%20Report%20to%20UN%20CERD%20September%202019%2012.9.2019.pdf>

⁵⁹ YNet News, "The al-Aqsa Intifada," March 19, 2009: <https://www.ynetnews.com/articles/0,7340,L-3689276,00.html>

⁶⁰ Israel Ministry of Foreign Affairs, "The Citizenship and Entry Law (Temporary Order), 2003," March 23, 2005: <https://www.mfa.gov.il/mfa/aboutisrael/state/law/pages/citizenship%20and%20entry%20law%20temporary%20order-%202003.aspx>

⁶¹ Knesset, "Knesset approves extension of Citizenship and Entry into Israel Law," Knesset News, June 5, 2018: https://m.knesset.gov.il/EN/News/PressReleases/pages/Pr13905_pg.aspx

⁶² Danish Immigration Service, "Apply for family reunification as a spouse," New to Denmark, May 5, 2019: <https://www.nyidanmark.dk/en-GB/You-want-to-apply/Family/Family-reunification/Spouse-or-cohabiting-partner>

training” in their country of residence before they can complete their reunification application.⁶³ Israel has no such requirements.

It is also not incompatible with ICERD to enact laws revoking citizenship according to clear rules. The US,⁶⁴ Canada,⁶⁵ and the UK⁶⁶ all have laws revoking citizenship on grounds of false representation and a number of countries have laws revoking citizenship for terrorists.⁶⁷ For example, the UK has stripped 120 individuals of their British nationality since 2016 based on involvement in terror, and offenders are banned from returning to the UK.⁶⁸

Nation State Law

In 2018, a new Basic Law was adopted (62 in favor, 55 against, and 2 abstentions), “Israel – The Nation-State of the Jewish People.”⁶⁹ The text includes 10 sections, each of which defines or refers to a specific aspect, dimension, or property related to Israel in terms of its relationship to the Jewish people and culture. These include the calendar, day of rest, and national symbols (flag, anthem, etc.).⁷⁰ According to its sponsors in the Knesset, the legislation is designed to reinforce and uphold the principles of Israel’s 1948 Declaration of the Establishment of the State of Israel, the creation of a “Jewish State in the Land of Israel.”⁷¹ The law is largely symbolic and declarative, does not have operative impacts, and repeats the language of previous statutes, such as the 1992 Basic Law: Human Dignity and

⁶³ French Republic, “Code de l’entrée et du séjour des étrangers et du droit d’asile,” Legifrance, October 18, 2019 (French):

https://www.legifrance.gouv.fr/affichCode.do;jsessionid=338995B8B66E26F17919485D4AF45103.tpdjo08v_2?idSectionTA=LEGISCTA000006147766&cidTexte=LEGITEXT000006070158&dateTexte=20140718

⁶⁴ U.S. Citizenship and Immigration Services, “Chapter 2 - Grounds for Revocation of Naturalization,” October 8, 2019: <https://www.uscis.gov/policy-manual/volume-12-part-1-chapter-2>

⁶⁵ Government of Canada, “Revocation of citizenship,” August 12, 2017:

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/canadian-citizenship/acquisition-loss/revocation.html>

⁶⁶ British Government, “Deprivation and Nullity of British citizenship,”

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/631643/deprivation-nullity-Chapter-55.pdf

⁶⁷ The case of Alaa Zayoud is cited by Adalah to make this claim. Key facts are, however, omitted, including his conviction on four counts of attempted murder in a car ramming and stabbing attack. Zayoud also admitted that he wished to “kill himself by killing Jews.” See Adalah, “Israeli Supreme Court temporarily delays revocation of Alaa Zayoud’s citizenship,” November 1, 2017: <https://www.adalah.org/en/content/view/9283>; Stuart Winer and TOI Staff, “In first, court revokes citizenship of Arab Israeli car-ramming attacker,” *The Times of Israel*, August 6, 2017: <https://www.timesofisrael.com/court-revokes-citizenship-of-arab-israeli-car-ramming-attacker/>

⁶⁸ UK Parliament, “Deprivation of Citizenship Status,” House of Commons Hansard, February 20, 2019:

<https://hansard.parliament.uk/commons/2019-02-20/debates/4DEC2589-7212-48A0-8507-9D38C0DEC42A/DeprivationOfCitizenshipStatus> see also: David Batty and Poppy Noor, “Who has been

stripped of UK citizenship before Shamima Begum?,” *The Guardian*, February 20, 2019:

Liberty, which refers to Israel as a “Jewish and democratic state.”⁷² Among other aspects of the 2018 law, the text declares that “The State shall act to preserve the cultural, historical and religious heritage of the Jewish People among Jews in the Diaspora.”

The perceived need for this law, adopted 70 years after the founding of Israel, was expressed by Prime Minister Netanyahu, who referred to the widespread attempts to demonize and delegitimize the existence of a Jewish State and other discriminatory campaigns. He explained that “Israel is the nation state of the Jewish people, that respects the individual rights of all its citizens...In recent years, there have been some who have attempted to put this in doubt, to undercut the core of our being. Today, we made it law: This is our nation, language, and flag.”⁷³

In contrast, critics claim that this legislation upsets the complex balance between Israeli democracy, on one hand, and the Jewish aspect, on the other. Others allege that the law is essentially discriminatory. For example, in Adalah’s submission,⁷⁴ the NGO claims that the new Basic Law “contains no commitment to democratic norms, or a guarantee of the right to equality, or a prohibition of discrimination on the basis of race, nationality, ethnicity or any other category for all people living under Israeli sovereignty. Indeed, it does not even define its citizenry, referring instead to the Jewish people as its subject, and defining sovereignty and democratic self-rule as belonging solely to the Jewish people, wherever they live around the world.”

In responding to this and other criticisms, the law’s supporters declare that “Those who believe this law is racist are like those who think Zionism is racism.” Others highlight the fact that Israel’s other Basic Laws, as cited above, as well as the Declaration of Independence and numerous decisions by the High Court of Justice guarantee democracy, equality, and prohibition of discrimination (in adherence to ICERD). There was therefore no need to repeat these guarantees in the 2018 Basic Law and critics simply fail to note them in their singular analysis.

<https://www.theguardian.com/uk-news/2019/feb/20/who-has-been-stripped-of-uk-citizenship-before-shamima-begum>

⁶⁹ “Knesset passes Jewish nation-state bill into law”. July 19, 2018

https://main.knesset.gov.il/EN/News/PressReleases/Pages/Pr13979_pg.aspx

⁷⁰ The Knesset, “Basic Laws,” <https://m.knesset.gov.il/EN/activity/Pages/BasicLaws.aspx>

⁷¹ “Declaration of Establishment of State of Israel,” Israel Ministry of Foreign Affairs, May 14, 1948:

<https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/declaration%20of%20establishment%20of%20state%20of%20israel.aspx>

⁷² Knesset, “Basic Law: Human Dignity and Liberty,” 1992:

https://www.knesset.gov.il/laws/special/eng/basic3_eng.htm

⁷³ Knesset, “Knesset passes Jewish nation-state bill into law,” July 19, 2018

https://main.knesset.gov.il/EN/News/PressReleases/Pages/Pr13979_pg.aspx

⁷⁴ Adalah, “NGO Report to the UN Committee on the Elimination of Racial Discrimination in Advance of its List of Themes for the State of Israel,” September 12, 2019:

<https://www.adalah.org/uploads/uploads/Adalah%20NGO%20Report%20to%20UN%20CERD%20September%202019%2012.9.2019.pdf>

<https://www.adalah.org/uploads/uploads/Adalah%20NGO%20Report%20to%20UN%20CERD%20September%202019%2012.9.2019.pdf>

International Legal Scholar and Professor of International Law at Northwestern University, Professor Eugene Kontorovich, compares the 2018 Basic Law to that of European nation states, arguing that there is “nothing racist, or even unusual, about having national or religious character reflected in constitutional commitments...Seven EU states have constitutional ‘nationhood’ provisions, which typically speak of the state as being the national home and locus of self-determination for the country’s majority ethnic group...It is hard to understand why what works for them should be so widely denounced when it comes to Israel.”⁷⁵

Other supporters point out that in recognizing the role of the State in preserving the particular Jewish “cultural, historical and religious heritage...in the Diaspora,” the text is consistent with existing Israeli policy,⁷⁶ and fully complies with international laws on self-determination for peoples or “groups possessing a shared ethnicity, history, language, and/or culture.”⁷⁷ For example, Turkey has policies directed at Turkish migrants that seek to “preserve and strengthen the links of migrant workers to their homeland and cultivate their ultimate loyalty to the Turkish state.”⁷⁸ Similarly, the South Korean government also works to represent and engage Koreans in the Diaspora via its establishment of the Overseas Korean Foundation in 1997, which works “to utilize the capabilities of overseas Koreans for national development in line with its globalization policy.”⁷⁹

Additionally, Adalah alleges that the 2018 Basic Law weakens the status of Arabic “and reduces the circumstances in which legal challenges can be made to promote the use of Arabic within Israel.” This is, however, not consistent with the text of the law, which explicitly states, “Nothing in this article shall affect the status given to the Arabic language before this law came into force,” thus ensuring the maintenance of the status quo. Furthermore, in practice, Arabic is included on currency, road signs, public transportation signs and announcements, food labels, and medicines, among other areas. Public media (radio and television) includes numerous Hebrew and Arabic channels, as well as Russian and French channels.

⁷⁵ Eugene Kontorovich, “The legitimacy of Israel’s nation-state bill (I): comparative constitutionalism”. Kohelet Forum. 10 December 2014. <https://en.kohelet.org.il/publication/the-legitimacy-of-israels-nation-state-bill-i-comparative-constitutionalism>

See also Eugene Kontorovitch and Moshe Koppel, Kohelet Forum, “Why All the Outrage over Israel’s Nation-State Law?”, 29 Tishri 5779 | 8 October 2018, <https://en.kohelet.org.il/publication/why-all-the-outrage-over-israels-nation-state-law>

⁷⁶ Dr, Emmanuel Navon, “The Case for Israel’s Jewish State Law,” Kohelet Policy Forum, July 18, 2018: <https://en.kohelet.org.il/publication/the-case-for-israels-jewish-state-law>

⁷⁷ Hurst Hannum, “Self Determination,” Oxford University Press, May 19, 2017: <https://www.oxfordbibliographies.com/view/document/obo-9780199743292/obo-9780199743292-0125.xml>

⁷⁸ Yaşar Aydın, “Turkey’s Diaspora Policy and the ‘DİTİB’ Challenge,” May 15, 2019: https://dayan.org/content/turkeys-diaspora-policy-and-ditib-challenge#_edn11

⁷⁹ International Organization for Migration, Migration Policy Institute, “Developing a Road Map for Engaging Diasporas in Development,” 2012: https://publications.iom.int/system/files/pdf/diaspora_handbook_en_for_web_28may2013.pdf

Israeli Civil Society

Israel has a vibrant and open civil society, with over 40,000 non-profit associations (*amutot* in Hebrew) registered in Israel, demonstrating the State's adherence to article 2.1.e. These NGOs deal with a wide variety of social, political, and economic issues, including but not limited to human rights, civil rights, humanitarian aid, minorities, environment, religious services, and medical services. The groups work among different populations, utilizing various methods of research, education, lobbying, and media advocacy.⁸⁰ Many focus on representing and furthering protections to minority populations in Israel. The breadth of the civil society sector is examined in the research institute reports, government agency publications, and in academic studies.⁸¹

The controversy in Israel regarding civil society political advocacy groups concerns large-scale funding (close to 100 percent in some cases) provided by foreign governments to a select minority of organizations. According to some analyses and perceptions of ministers, Knesset members, and journalists, this external involvement in Israeli civil society is a violation of national sovereignty and democratic process, which is largely unique to Israel in terms of scale and political direction.⁸² In addition, most of these external government funding processes for ostensibly Israeli civil society groups were, until recently, lacking transparency and operated without accountability, in violation of basic democratic governance and principles.⁸³ This led to legislation, such as the 2011 NGO Transparency Law,⁸⁴ to enhance transparency and accountability of Israeli organizations, which is by no means, as is sometimes alleged, akin to "closing of civil society space." Such laws, including Freedom of Information laws, are in place throughout the European Union, Canada, the United States, and elsewhere.

Conclusion

The scourge of racism is one of society's endemic problems. The ICERD was adopted in order to clarify State obligations and provide them with tools in order to eradicate such unacceptable behavior. As a party to the ICERD, Israel must enact policies and take action in accordance with the Treaty. And there is much Israel can do to improve its record under the ICERD.

⁸⁰ NGO Monitor, "Mapping Israeli NGOs," July 12, 2016: <https://www.ngo-monitor.org/reports/mapping-israeli-ngos/>

⁸¹ European Union, "Israel EU Country Roadmap for Engagement with Civil Society," June 5, 2015: <https://europa.eu/capacity4dev/file/26134/download?token=RuA8qNMz>

⁸² Gerald M. Steinberg and Becca Wertman, "Value Clash: Civil Society, Foreign Funding, and National Sovereignty," *Global Governance* 24 (1): 1-10, August (2018): https://www.researchgate.net/publication/323112413_Value_Clash_Civil_Society_Foreign_Funding_and_National_Sovereignty

⁸³ Ronald R. Krebs and James Ron, "Why Countries Should Welcome, Not Fear, Foreign Funding of NGOs," *Lawfare*, May 13, 2018: <https://www.lawfareblog.com/why-countries-should-welcome-not-fear-foreign-funding-ngos>; Gerald Steinberg, "Foreign-Funded NGOs, Political Power, and Democratic Legitimacy," *Lawfare*, June 24, 2018: <http://www.lawfareblog.com/foreign-funded-ngos-political-power-and-democratic-legitimacy>

⁸⁴ Nevo, "Non-Governmental Organizations Laws," https://www.nevo.co.il/law_html/Law01/p182k1_001.htm

Recommendations by the Committee are vital in helping this to occur.

These recommendations, however, must be based on verified data and impartial analysis, and grounded in constructive debate. They must not emanate from inflammatory and unsubstantiated charges made by bad faith actors, nor be issued as part of a campaign that stands directly at odds with the values and principles of the ICERD.