

## Symposium:

### “Towards Inclusive Israeli Citizenship”

#### A New Conceptual Framework for Jewish-Arab Relations in Israel

20 June 2011, Jerusalem Institute for Israel Studies

In cooperation with Friedrich Naumann Foundation for Liberty-Jerusalem office

## Summary

The symposium included the participation of twenty eight active members of organizations that work to promote Jewish-Arab relations in Israel.

The opening remarks were delivered by Prof. Yaacov Bar-Siman-Tov, Head of the Jerusalem Institute for Israel Studies (JIIS) and a member of the think-tank that composed the document, and by Dr. Hans-Georg Fleck, Resident Representative of the Friedrich Naumann Foundation for Liberty in Israel and the Palestinian Authority.



### Welcome and Opening Remarks:

- **Prof. Bar-Siman-Tov :**

The idea of convening a think-tank to address this issue developed within the JIIS following the publication of the four Vision Documents of Arabs within Israel. Our approach was innovative in that it was not aimed at producing a Jewish vision document in response, as we lack the authority to formulate a Jewish vision. At the same time, we recognize the increasingly problematic nature of relations between Jews and Arabs in Israel, as well as the need to prevent the worsening of relations and to identify a basis for mutual understanding.



Towards this end we established a multi-disciplined think-tank reflecting the various perspectives of experts familiar with and concerned about the issue. The think-tank is far from homogenous, and in the course of our work we encountered differences of

perspective, differences of approach, and – on more than one occasion – the need to mediate conflicting positions among participants. The document before you is the think-tank's collaborative effort to reach a common understanding in the form of a paper that can provide a basis for discussion for both populations, Jewish and Arab.

All of us believed in the necessity of developing a new conceptual framework for Jewish-Arab relations in Israel.

- **Dr. Hans-Georg Fleck :**

After more than two years of intensive and strenuous work, Prof. Yitzhak Reiter and the members of the working group are going to present to you today the results of their efforts to tackle one of the most crucial questions of the future of the State of Israel.



When I have the chance to meet visitors from Germany or other parts of the world – and I quite often have the chance to do so – I often stress that there are two core domestic problems of Israeli society, of Israel's future that have to be comprehensively addressed by Israeli politics.

These problems are not independent of the one issue which seems to completely absorb the attention of politicians and societies on both sides of the seam or the wall, whatever you like to call it, yes, even the world's attention at large. You know what I am talking about: the Israeli-Palestinian Conflict the solution of which seems to become more distant in spite of the peace rhetoric we are so familiar with.

Dr Fleck referred to the societal cleavage which is exclusively related to the Jewish majority within the State of Israel: the divide between the secular defenders of principles and values this state was once founded for and the – in the physical sense - daily growing amount of contenders challenging these principles and values by invoking religion as the guiding principle of the Jewish people.

We are going to discuss – and hopefully not only here and today – a new effort to describe the coexistence of the majority Jewish community and the Palestinian-Arab minority within the State of Israel.

We agreed to support and accompany this endeavour because – as I tried to explain to you – we were and are aware of the tremendous importance of this highly controversial issue for the future and well-being of this country and all its citizens.

Being a liberal but a German organization as well, we regard our commitment in this matter as an expression of our sympathy, of our very special feeling of responsibility for the State of Israel as the home of the Jewish people.

We follow this track albeit knowing that it is unfortunately too often interpreted as a meddling into domestic affairs, interpreted as such especially by those who confuse “friendship” and “responsibility” with uncritical adjustment or even ingratiation.

And our commitment has a second aspect: Liberals always have to be concerned when the rights of minorities are at stake.

Today, the Israeli public will receive this important document on one of the extremely emotionally charged items of Israeli domestic politics. We do not subscribe to each and every word, to each and every proposal you will find in this document. This is meant to be a discussion paper by Jewish-Israeli authors for the entire Israeli population – not a “Naumann paper” and not a “liberal paper”.

### Speakers:

- **Prof. Yitzhak Reiter presented the salient principles of the document, focusing on the following points:**



#### **The motivation for and purpose of the document:**

The motivation behind our initiation of the project and the formation of a think-tank was the result, among other things, of the worsening of relations between Jews and Arabs in recent years, as expressed through the defiant discourse of Jewish and Arab leadership and through legislation that has a negative impact on the Arab population. The worsening of relations is also reflected in the 2010 Survey Index of Prof. Sammy Smooha. In addition, the Arab Vision Documents were a trigger, creating the need for a Jewish-Israeli team that would give some thought to this issue.

The methodology of the think-tank was to focus on finding the right and unique balance for the situation in Israel, to identify the problems that prevent the Arab minority from achieving full equality, and to attempt to bridge these problems. The team developed a formula for balancing between the important interests of Jews and Arabs: Equality and assurance of all possible rights for the Arab minority without detracting from the majority’s primary interest in preserving the Jewish character of the state. The team believes in the importance of pursuing a constitutional arrangement for the protection of the rights of both the minority and the majority (in light of legislation that has led to regression in this area).

Upon conclusion of the first draft, the think-tank team held focus group meetings with renowned Arab individuals and with Jewish Knesset members and public figures, as well as a consultation with the Minister for Minority Affairs and his staff.

The Issue of Shared Citizenship – The concept of a shared citizenship that cuts across ethnic and national origin has not gained ground within Israel. The team therefore

proposed the development of a model of citizenship centred on stronger democratization and including the following:

- Formulation of an inclusive approach
- Awareness and education
- Equality of rights and obligations
- Civil service as a project on which collective and inclusive citizenship can be grounded

**A Fundamental Problem in the Definition of the State** – The team found that progress would not be possible without addressing the root problem of the definition of the state as “Jewish and democratic” and, therefore, proposed a new definition that does not discriminate against the Arab minority while focusing on the Jewish people’s right of self-determination within Israel, its state. At the same time, in order not to undermine the primary needs of the Jewish majority, Jews would still receive preferential treatment on matters pertaining to the Law of Return, cultural dominance (as opposed to exclusivity), and the symbols of the state. Within two of these three areas, moreover, we propose mechanisms to improve the legal, representational, and practical standing of the minority without negating the Jewish character of the state.

**Recognition of the Arab Minority as a National Minority** – We propose such recognition as a way of rounding out the concept of inclusive citizenship. This means that the Arab minority would be granted collective rights as well as personal and collective equality in the following areas:

- Choice of leadership
- Appropriate representation within the public culture, including use of the Arabic language
- Budget
- Self-administration in specified matters
- Appointment to public service
- Affirmative action in areas where severe discrimination prevails, in order to bridge gaps
- Representation within government coalitions
- Appropriate representation among the media
- Equitable allocation of lands and resolution of special problems in this area
- Appropriate representation (relative or as warranted under the circumstances) is the key to improvement and progress towards equality



**The Role of Leaders** – The team proposed that Jewish and Arab leadership be held responsible and that they should be monitored. It also proposed that legislation be passed to prohibit slander and racist speech, and that between the leaderships the discourse become inclusive and a dialogue be established.

**Mechanisms for Implementation** – A public civil authority with the necessary mandate and budget should be established in order to oversee integration and equality.

Prof. Reiter concluded by saying that the think-tank’s proposal largely accords with Jewish public opinion as indicated by Prof. Smootha’s 2010 Index, which found that the Jewish public is prepared to grant Arabs equality and self-administration in matters of education, culture, and religion in exchange for preservation of the Jewish character of the state.

- **Dr. Sarah Ozacky-Lazar, a think-tank member, focused on discussion of the essence of citizenship:**

The press coverage in recent weeks indicates that the citizenship of Arabs in Israel faces daily challenges and can even be described as under assault.



Since the earliest days of the state, discussions surrounding the Citizenship Law were (naturally) not free of preferential treatment for Jews, and the first legislative proposals during the 1950s drew the ire of Arab Knesset members who claimed their own **natural** rights as residents of the land for several generations past. This is the origin of the fundamental difference between the Jewish and Arab concepts of citizenship – the former abided by the law of blood ties and the latter adhered to the law of the land – and they believed that such was their fundamental, just, and inalienable right. Even the issue of loyalty was already raised by then-Minister of Internal Affairs Moshe Haim Shapira, who said, “I hope those who want to be loyal to the State of Israel acquire citizenship easily and are able to integrate with the residents of the land easily.” It is noteworthy that no objections were raised regarding acquisition of citizenship *per se*; the struggle was, instead, over the conditions for its acquisition and, later, its internal meaning or essence.

**The Essence and Nature of Citizenship** – Liberalism, at least at the formal level, views every individual as entitled to the status of “citizen” and to the rights that follow, while regarding the state as devoid of any ideological, religious, or national identity – “blind” to the identity of its citizens – refraining from all forms of coercion, and defending the freedom of the individual. This is therefore an “inclusive” theory that stresses both the need for social solidarity and equality of opportunity (not only equality of rights) and rejects extreme economic inequality. Quite possibly we lag behind today’s reality, given that the current discourse addresses super-national or post-national citizenship, which is more inclusive, as exemplified by the European Union – a consequence of globalization and migration processes.

**Group Citizenship or Collective Rights:** Various social groups have different socio-demographic and economic characteristics that result in a varied and layered citizenship within these groups. Their needs are particularly different when minority groups are involved. The Arab Vision Documents strongly assert this demand and call for recognition as a national minority.

Citizenship within a multi-cultural society affirms the existence of a number of communities with equal status, independent identity, and loyalty to the state. The state, for its part, is obligated to provide the conditions that will enable these communities to protect their unique character.

**The History of Proposals for an Arrangement:** A survey of the arrangements proposed and the documents published over the past 12 years reveals an impressive assortment of efforts whose formulation occupied hundreds, perhaps even thousands, of people – academics, legal scholars, civic groups, and participants in public discussions. What is common to all of these people is their dissatisfaction with the current situation and their sincere effort to address and remedy it. Groups of people who gather to discuss, question, and debate – whether Jews and Arabs together or each group separately – represent an active citizenry. In my opinion this is a particular means, albeit not a complete guarantee, of somewhat moderating tensions and directing them towards debate and discussion rather than violent protest.

There is a great deal of frustration. Very little came of the Orr Commission, Lapid Commission, Kinneret Covenant, Vision Documents, Four Billion Plan, or Consensual Constitution.

During the past two years, and in particular during recent months, we have witnessed a series of legislative proposals that would have been regarded as absurd and inconceivable in the past, yet today are presented openly and shamelessly. These proposals pull the rug out from under the orderly and restrained public debate over options for a compromise arrangement.

The think-tank's document proposes establishing a space that can be shared by all residents of this land under the heading of citizenship. Citizenship is the comprehensive and inclusive common denominator.

Similarly, the discussion cannot be divorced from the approximately quarter of a million Arabs of East Jerusalem who live without citizenship but, rather, with a hybrid status of residence, or the additional four million or more who live in the Land of Israel or Mandatory Palestine, who have been completely denied any form of state standing and are *de facto* subject to state rule but *de jure* denied any status.

## Respondents:

- **Prof. Eyal Benvenisti (Professor of Constitutional Law at Tel Aviv University) responded to the document with the following critical observations:**
  - It is unfortunate that the think-tank does not represent the various sectors of the public
  - It is not only the result that matters but also the process. A process and mechanism for



neutralizing problems (borrowing from the model of the British report on multi-ethnicity) should be developed.

- A constitution is not important; implementation and practical application are more important.
- There is already recognition of the Arab minority. The Basic Laws suffice, and there is no need for a constitution because laws distort reality, generate legal rhetoric, and provide the pretence of an equality that does not exist in reality.
- The proposal to limit freedom of expression is very problematic (expression cannot be prevented; it can only be labelled as negative).
- The concept of realistic and appropriate compensation for loss of land is potentially explosive. This issue should be linked to the broader Israeli-Palestinian conflict. It is doubtful that the Arabs in Israel would agree to be the first to receive compensation.
- Recognition of the Arab minority as a national minority should not be presented as a way to compensate for the Jewish character of the state.
- The work of the Minerva Center on a human rights commission for all citizens, not only minorities, offers a model that should be adopted. There is no need to reinvent the wheel. This is a proactive body, separate from government and engaged in monitoring, responding, initiating, and advocating.
- There is the possibility of a future coalition of Ultra-Orthodox and Arabs. A model should be developed based on the future composition of the population, and thought should be given to a federal framework and other scenarios.

- **Attorney Jawad Boulus responded to the document by noting the following points:**

- A bold plan
- Concern that the plan will be buried, like its predecessors
- The matter of obligations is irrelevant as a basis for rights because even the Druze, who fully adhere to such obligations, are not granted full rights.



### **Open Discussion:**

An open discussion, in which the participants took part, followed. The salient points included the following:

- **Dr. Moshe Berent (The Open University)**
  - We will not achieve equality without dismantling the Jewish state. A constitution cannot be created within a Jewish state.
  - The approach should encompass inclusive Israeli nationality, not only citizenship.
  - The core problem is equality in the job market.

- Civil service should be for everyone – not only Arabs – or else it will entrench the discrimination.
- **Ron Gerlitz (Co-Executive Director, Sikkuy – The Association for the Advancement of Civic Equality in Israel)**
  - This document is important because it proposes transforming the inherent contradiction between the values of the state as Jewish and as democratic into a form of tension with which we can work (the various implications can be explored).
  - Comparison between the negative discourses of Jews and Arabs is problematic (denial of legitimacy versus the policy of “transfer”).
  - Equality of obligations is problematic, as is the assertion of intent to make civil service mandatory in the future.
- **Duby Schwartz (founding member of ATID – organization for a joint Jewish-Arab vision)**
  - Welcomes publication of the document and proposes cooperation. The primary goal towards which we should aspire is the granting of public legitimacy to the principles presented in the document.
- **Attorney Ali Haidar (Co-Executive Director, Sikkuy – The Association for the Advancement of Civic Equality in Israel)**
  - The concept of joint sovereignty (power-sharing) is correct and important.
  - The doctrine of the nation-state – the Zionist paradigm – is dominant within the document and should be removed. In this sense the document is merely a conceptualization of something that already exists in any event. The question of whether Israel is democratic or not must be resolved.
  - Speaking as a participant in the formulation of the Vision Documents (noting that they offer a more progressive formulation) – Israel is a shared homeland, and self-determination for both national groups is proposed.
  - As a document produced by a Jewish group, this document is most welcome – unlike the Kinneret Covenant or Consensual Constitution.
  - The next step should be a dialogue between the Vision Documents and this document.
- **Martin Ben-Moreh (Reut Institute)**
  - The more powerful sectors of Israeli society are not represented.
  - A response to change within the social fabric. No government representative is able to speak to this.



- **Meir Kraus (Director of the Jerusalem Institute for Israel Studies)**
  - Debating the issue of the Jewish state will not advance us in any way. We must explore practicalities. The question – and the test we must pass – is: What is the state’s obligation towards its citizens?
  - There is a great deal of work in front of us in addressing the practicalities of achieving equality before we approach the ideological argument over the essence of the state. Defining the practicalities as a goal is realistically feasible at this time.
  
- **Yoav Stern (formerly *Ha’aretz* correspondent for Arab affairs and currently with the Peres Center for Peace)**
  - Demonstrating the lack of agreement between Jews and Arabs is important. The cooperative school in Kfar Kara provides an example. Agreement cannot be reached today.
  
- **Rana Saed (Attorney and Translator)**
  - It is important to note the responsibility of the Arab leadership for the problems of the Arab population, as well as the need for the younger generation to affect change without waiting for the leaders. We must not miss the opportunity before us to galvanize the Arab sector and take advantage of its human resources.
  
- **Prof. Yaacov Bar-Siman-Tov (Head of the Jerusalem Institute for Israel Studies)**
  - Troubled by the Arab visions; We do not intend to create a contesting Jewish vision
  - The paradigm should not be changed, and we should not wait for the conclusion of the conflict.
  - The “Jewish State” does not refer to a state under Jewish Law (*Halakha*) but to the right of the Jewish people to self-determination
  
- **Michael Sternberg (Shatil):**
  - A great deal of empathy with the process behind document
  - The question is: What will attract the publics? What is the basis for non-coercive Jewish-Arab cooperation?
  
- **Concluding Remarks by Prof. Reiter:**
  - The definition of the state – If this were a philosophical essay, we would be able to discuss cosmopolitan citizenship without nationality or religion. We addressed the issue using the tools of conflict resolution – identification of the red lines of the majority and minority and efforts to balance them.



- Obligations – The meaning of citizenship – in the form of ‘glue’ uniting the population – is such that we must strive for equality of obligations as well as rights, and in this sense making civil service obligatory is welcome.
- Constitutional significance – A constitution is important because critical matters cannot be relegated to social processes and because the existing constitutional framework is discriminatory.
- The Arab Vision Documents are problematic, particularly in their expectation of 50% equality on matters of language, the Right of Return, and the symbols of the state.