

## LEGISLATION OF CITIZENSHIP IN ISRAELI "DEMOCRACY"

Citizenship is a certificate representing a legal relationship between the individual and the state. Democratic citizenship is a certificate representing the recognition by the state of the right of every citizen to equal access to the political process of the state (e.g., to elect and be elected to all of the offices of the state); to the civil process (e.g., to equal standing before the law); to social and welfare services (e.g., religious services); and to the material resources of the state (e.g., land and water).

Like all rights, democratic citizenship as we know it today is a right won by the struggle of the people vis-à-vis the state.

Article 15 of the Universal Declaration of Human Rights stipulates that (1) Everyone has the right to a nationality and (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Unlike the US legislature, which recognizes, under a democratic Constitution, one universal citizenship for all US citizens without distinction of nationality, religion, language, tribe, sex, sexual orientation or any other social status - the State of Israel does not have one single universal citizenship for all of its citizens. Rather, informed by the dominant ideology of political Zionism, the Israeli legislator (the Knesset) legislated a schedule of four classes of citizenship based on racial discrimination and representing blatant inequality in law, in other words, representing a new form of Apartheid.

It is in order to underline here that I refer to the term <sup>11</sup>Apartheid<sup>11</sup> in the narrow and technical sense of the word, namely, as a term designating a political programme predicated on discrimination in law on a racist basis; and I refer here to the term "racial discrimination" as defined in Article 1(1) of the UN Convention on the Elimination of All Forms of Racial Discrimination of 1966 (any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms on the political, economic, social, cultural or any other field of public life.)

In the State of Israel the right of a citizen classified in law as a "non-Jew" (namely, an <sup>11</sup>Arab<sup>11</sup>) to partake in the political process is formally equal to the right of a citizen classified in law as a "Jew". Likewise the standing of a citizen classified in law as a "non-Jew" before the courts of law is formally equal to the standing of citizen classified in law as a "Jew"

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On the other hand the right of a citizen classified in law as a '1non-Jew'<sup>9</sup> to the social and welfare services and the material resources of the State are NOT equal to those of a citizen classified in law as a '1Jew!', and, until the ruling by the Israeli Supreme Court sitting as High Court of Justice on the the case of Qaadan versus Qatzir in March 2000, such citizens of the state of Israel as are defined in law as '1non-Jews!' (namely, "Arabs'<sup>1</sup>) were denied access to 93 per cent of the territory of pre-1967 Israel administered by the Israel Lands Administration (ILA).

In other words, the Israeli legal system is based fundamentally on the determination of at least two classes of citizenship: Class 'A' citizenship for such citizens as are classified in law as '1Jews!', and, as such are allocated in law a privileged access to the material resources of the State and the social as well as the welfare services of the State only because they are classified in law as '1Jews' versus Class B citizenship for such citizens as are classified in law as "non-Jews", namely, as Arabs, and, as such, are discriminated against in law with regard to their right to equal access to the material resources of the State as well as the social and welfare services of the State, first and foremost their right to equal access to land and water only because they are classified in law as "non-Jews"

But subject to Class "B" citizenship above, there exists in the State of Israel by force of the Absentees Property Law of 1950 also Class "C" citizenship for such Arab citizens of the State of Israel who are present inside the state, yet classified in law as "absent". These Arab citizens are indeed present inside Israel as taxpayers and voters who cast (or refrain from casting) their vote in the election ballot - but, being classified under the said obscene law as "absentees" - they have been denied all their rights to their properties (e.g., lands, houses, corporations, shares, bank accounts, bank safes, etc.) such as were valid until 1948. Some 20 per cent of the constituency of the Palestinian Arab citizens of Israel, approximately 200,000 persons, are classified in Israeli law as Class "C" citizens, namely, as "present-absentees".

Also, subject to the said Absentees Property law of 1950, the Israeli legislator (the Knesset) determined in law a Class "D" citizenship, namely, the denied citizenship of some 750,000 1948 Palestine refugees and their descendants currently numbering according to UNRWA figures over 4 million persons. Under the terms of UN Resolutions 181 (Plan for Partition with Economic Union) of November 1947, the constitutive document of the State of Israel and the State of Palestine recommending the partition of the territory of British Mandate Palestine into a Jewish State and an Arab State - the currently approximately 4 million 1948 Palestine refugees are entitled to the citizenship of the Jewish State Yet, the Israeli legislator (the Knesset), by force of the said Absentees Property Law of 1950, and in violation of the norms of the Universal Declaration of Human Rights and the standards of international law, denationalized the mass of the 1948 Palestine refugees, denying their right to Israeli citizenship, thereby rendering them stateless.

Under the terms of the said constitutive document of the State of Israel and the State of Palestine (UN Resolutions 181) all Jews ordinarily resident in the territories allocated by the UN for the Arab State and their descendants are entitled to Arab State citizenship and all Arabs ordinarily resident In the territories allocated by the UN for the Jewish State (including, of course, all 1948 Palestine refugees and their descendants) are entitled to Jewish State citizenship, let alone to the title to their properties inside Israel and to return.

It had taken the UN by far too long to realize that Zionism is a form of racism representing a blatant violation of the norms of the Universal Declaration of Human Rights and the standards of international law. It was only in the wake of the 1967 war and the consequent war crimes perpetrated by the Israeli occupation forces on the one part, challenged by the renewed resistance of the Palestinian Arab people led by the PLO on the second part, that the UN corrected its record and passed General Assembly Resolution 3379 of November 1975 determining that "Zionism is a form of racism and racial discrimination". And it is indeed most regrettable that on the wake of the Middle East Peace Conference convened in Madrid in October-November 1991, co-sponsored by the US and the former USSR, the General Assembly muddied its record again by passing Resolution 46/86 of December 1991, deciding to revoke the said determination of Zionism as a form of racism and racial discrimination.

Let us all hope that beginning with the forthcoming UN World Conference Against Racism scheduled to take place in Durban South Africa, in August-September 2001, and predicated on the clear and firm distinction between Judaism as a confessional statement that strictly belongs to the private realm of the individuals concerned versus Zionism as a political programme that like all political programmes ought to be critically attended to and judged by the extent that they are compatible with the values of the Universal Declaration of Human Rights and the standards of international law - all those committed to the values of the Universal Declaration of Human Rights and to the consistent application of the standards of international law worldwide will coordinate their efforts with the view to motivate the UN to recognize that Zionism is a new form of Apartheid. There is little doubt that, as in the case of the dismantlement of Apartheid in South Africa, the UN is able to play a critical role, mutually beneficial to all parties concerned, by applying to the State of Israel suitably corresponding sanctions with the view to suggest to the Government of the State of Israel that just as the international community would not tolerate Apartheid in South Africa it could and it would not tolerate Apartheid in Israel.

Let all those committed to the values of the Universal Declaration of Human Rights and to the consistent application of the standards of international law worldwide coordinate their efforts with the view to motivate the UN to insist that the State of Israel comply with the terms of all UN resolutions relevant to the question of Palestine, including UN Resolution 181 of November 1947, determining that the State of Israel establish itself as a "Jewish State" - NOT as a Jewish State in the Zionist sense of the term, namely, an Apartheid state; NOT as a war criminal Government guilty of the mass "ethnic cleansing" of the 1948 Palestine refugees from their now mostly destroyed hundreds of villages and many towns - but a "Jewish State" that is essentially democratic (with some "Jewish" trappings), namely, a democratic state for all of its citizens and 1948 Palestine refugee.

And finally, let all parties involved with the Israeli-Palestinian conflict, first and foremost the State of Israel, the colonial occupation party as well as the PLO, the anti-colonial resistance party could do worse than remember that the Universal Declaration of Human Rights and international law frame universal norms for the removal of injustice in such terms as secure the human rights and fundamental freedoms of everyone, including those of the former colonized and those of the former colonizers; those of the former occupier and those of the former occupied; both the Arab and the Hebrew peoples of Palestine as equal future Palestinian Arab and Palestinian Hebrew citizens of a democratic state.