

The Cultural and Educational Collective Rights of the Arabs in Israel

By Dr. Sarah Ozacky-Lazar¹

"The various demands of the Arab sector in the spheres of education, language, culture and religion include a demand for a collective-based equality. To the extent that these demands are based on their claim for equality in the above sense, they have not been met. The basic right to equality in Israeli Law has been recognized on the basis of the individual's right to equality. It has not been recognized by legislation or by the courts of law as a collective right, given to this group or another as opposed to specific individuals in it."

The Or Commission Report, Vol. A, page 57 (September 2003)

There is no debate over the fact that the Arab-Palestinian community in the State of Israel possesses its own unique culture, and that it therefore has the right to conditions that will enable it to maintain, foster and develop this culture, and impart it to its descendents. Language is of pivotal importance to any culture, and in this matter, too, there is an evident need to establish a clear-cut, unambiguous status for the Arabic language, not merely as the language of one group in Israel, but as a language of the entire state. This status should not be based only on the legacy of the British mandate, but also on renewed Israeli legislation. One of the main channels of transmitting culture from generation to generation is the educational system. The separation between the Jewish, state-run educational system and the Arab educational system, even if stemming from political factors and chiefly motivated by a desire for separation and exclusion, ultimately also produced a desirable outcome from the Arab point of view – a *de facto* collective right to impart to their children an education in their own language. The decision to adopt the laws of matrimony of religious communities, a legacy of Ottoman rule, is in fact a collective right granted by law to persons of different faiths in Israel.

Various rulings of the Supreme Court of Israel delivered over the years have strengthened collective rights in the spheres of culture and education. Only recently did the Supreme Court revoke the government's decision in the issue of "National Priority Areas" for education, due to the flagrant discrimination against Arab towns and villages in this case.²

I wish to claim here that despite the recent increase in the volume of discussion on collective rights of Arabs in Israel, and although the quality of the discussion has improved, there is still no full understanding or agreement about their nature. Arabs and Jews, academics and politicians, jurists and social scientists alike, still do not agree over the essence and precise definition of these rights, or of the practical steps they wish to take or demand that the state take, to achieve them. On this issue, many questions still remain unanswered, requiring clarification and theoretical and practical conceptualization. In addition, it would be necessary to examine what the long-term impact of the practical realization of these collective rights would be on the relations of the Arab community with the state, their status in it and their ties with the Jewish community. Are we talking about an aspiration to total cultural and

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² See H.C. 11163/03, *The High Follow-up Committee for the Arab Citizens of Israel, et. al. v. the Prime Minister of Israel*, decision dated 27 February 2006. The petition was originally filed in 1998. Adalah represented the petitioners during eight years of litigation in this case.

educational autonomy or a wide collective equality within the framework of the state? Or is it a wish for seclusion culminating ultimately in irridentism ?

Former Supreme Court Justice Yitzhak Zamir interprets the practical meaning of the collective right thus: "The group has the right to use and foster its language and legacy and may also entail a demand from the government to assist in protecting and promoting that right."³ Amal Jamal holds that "The state could encompass all its citizens while giving each group within it equal opportunity to influence the public sphere and express its national identity and culture;"⁴ whereas Yossi Yona, who analyzes the multicultural thesis extensively, claims that, "The combination of liberal multiculturalism with separate public spheres ... demands that both groups (and especially minority groups) be allowed to set up separate public spheres which include independent cultural systems, so that each group can foster and develop its national-cultural uniqueness – so long as the goal of establishing these spheres is not to entrench the political, economic and cultural advantages of one of the groups."⁵

Gershon Gontovnik, in an article published in 2005 within an important collection on economic, social and cultural rights in Israel,⁶ describes the multicultural dilemma as a huge challenge to Israeli society, that must decide, "What the proper policy that ought to be adopted so that the current cultural endeavors may succeed in working well simultaneously, side by side ... with all the harsh criticism leveled at the liberal answer, the fact remains that it is the liberal government that has, to considerable extent, succeeded in enabling the simultaneous existence of cultural endeavors within it, including cultural endeavors that are not in the least liberal."⁷

What is the collective culture of the Arabs in Israel? It is anchored, first and foremost, in the Arabic language and all that emanates from it: holy scriptures, literature, poetry, theater, cinema, daily speech, and a wide gamut of cultural fields both past and present connected to the wider Arabic civilization. Secondly, it is in the Palestinian collective memory, which was suppressed by the formal education system, but is transmitted by other agents and seems to be growing with time. Thirdly, it is in the Arab and Muslim historical and cultural heritage which is as deep and rich as the ocean, but which is hardly reflected in the main body of Israel's culture.

In addition to all of the above, however, one cannot disregard the fact that over the past six decades, this unique group has developed another culture, different and distinct from that of its own people. Due to historical and political circumstances, which were forced upon them but are nonetheless a fact, Arab culture in Israel is inexorably intertwined with the Hebrew culture which has been created here. Most Arabs have full command of all of the intricacies of the Hebrew language, as they do their mother-tongue. They read and write Hebrew, are consumers of Hebrew media, literature and science, and even intersperse their daily Arabic speech with Hebrew

³ See: Rekhess, Elie and Sarah Ozacky-Lazar (eds.), "The Status of the Arab Minority in the Jewish National State," Tel Aviv University, 2005 [Hebrew].

⁴ Jamal, Amal, "On the Morality of Arab Collective Rights in Israel," *Adalah's Newsletter*, Volume 12, April 2005.

⁵ Yona, Yossi, *Bizchut HaHevdel* ("In Virtue of Difference") Van Leer and HaKibbutz HaMeuchad, 2005, p. 114 [Hebrew].

⁶ See: Rabin, Yoram and Yuval Shany (eds.), "Economic, Social and Cultural Rights in Israel," Ramot Publishing, Tel Aviv University, together with the Academic Track of the College of Management, 2005 [Hebrew].

⁷ *Ibid.* p. 661.

words and expressions. Hebrew (not necessarily Jewish) culture has become an integral part of their culture, and mutual influences work in both directions. Beyond language, a cultural dialogue and joint activity have emerged in areas such as theater and music, for instance, which would be impossible in any other country. Freedom and modernity have also had an impact on local Arabic culture. For the most part, free journalism and variegated literary creation flourish (except during the years of the military rule and in a number of subsequent cases, such as the arrest of poet Shafik Haviv because of a poem he wrote dedicated to the "rock [throwing] kids").

All available higher education is provided wholly in Hebrew at universities and colleges: aside from teachers' colleges and one Islamic college, there are no Arabic institutions of higher learning in Israel. The direct bearing of this situation on Arab artists, academics and educators in Israel cannot be erased. The culture carried by the Arabs in Israel is a mixed culture, bi-lingual, multi-dimensional, moving between East and West, between Arabic and Hebrew, between tradition and modernity, and is attentive to the workings of diverse cultural circles. Thus it grows and becomes richer, enhancing others and granting those who carry it personal and group privileges. This culture is not at all disconnected from the constantly forming concept of "Israeli culture," but rather constitutes an indivisible part thereof. It is difficult to imagine a process of regressing and creating an Arab cultural "ghetto" within Israel that would lay aside those influences, unless the final objective is to become completely detached from the State and from Israeli society and create a new entity, or else become attached to a future Palestinian state. However, both the platforms of political parties and the findings of surveys carried out time and again among Arabs in Israel indicate that there is no support for such a trend.

Therefore, we can look for a different, dual, course of action: on the one hand, the State should fulfill its unassailable duty to recognize Arab culture in its wider meaning as an equal culture, worthy of moral and material support. Allocations to Arab cultural institutions, the encouragement of Arab art and artists and true recognition of Arabic alongside Hebrew in the general Israeli public sphere, as the first language of the country's Arab citizens, are an inevitable must. Establishing an academy for the Arabic language and creating an Arabic TV channel could be important initial steps in that direction, but are not in themselves enough. I can imagine a situation where Israeli culture becomes a true common space, in which all speak both languages and create a cultural synergy composed of a multicolored mosaic of cultures. We must not forget that almost half the Jews in Israel are carriers of Arab culture, even if many of them are loath to fully admit it. They and their culture, too, were repressed during the early days of the state of Israel, in the name of the "melting pot" and the Ashkenazi, Sabra Israeli dominant identity. The influences of Arab culture on Israeli culture are by now evident to the point of being assimilated into it – in architecture, music, dance, cuisine, dress, plastic art, and so forth. Further increasing mutual cultural ties, and even guidance from the elite towards contact, friction, mutual learning and joint cultural creation tied to the place and space where we live, will make us all richer and more cultured. One step emerging from such an increase would require the teaching of Arabic as a compulsory language in Hebrew schools at a high level, while creating a system of rewards to teachers and students specializing in the study of Arab culture. There is an internal contradiction between the all-encompassing term "culture" and an ethnic and national detachment and seclusion. Culture, by its very nature, ought to be pioneering and ground-breaking, and create an identity that all residents in this country share.

The second course should come from within Arab society itself, from its artists and cultural champions. Instead of coiling inwards, they should be encouraged to reach out, to penetrate the innards of Israeli culture and make it accept and absorb them. Such a movement is already evident, particularly in cinema and theater, but the expectation is for increasingly more Arab artists to make themselves heard, with their unique voices, in all fields of art, to enhance and even lead the dialogue which in itself creates culture. Is Hebrew culture to be allowed to be disconnected from the space where it is created and to look across the ocean towards America, or is it natural for it to express the physical and geographic space in which it is created? I believe that it is precisely on this point that Arab artists have a clear and sharp message to convey, and that they can influence the local spirit and trends while listening to what is happening in the entire global village. Today, communication and media channels that are open to all are the immediate agents of culture, and one can hardly prevent the world's cultures from entering your living room. Therefore, as I see it, insisting on "collective rights" in the sphere of culture will bring about its narrowing-down and decline, and will not necessarily do Arab culture any good.

Moving on to the educational system, the right to education encompasses three main rights: the right to receive an education, the right to influence the content of education, and the right to equality in education. These rights sometimes complement and sometimes contradict one another.⁸ With reference to the right to education, The Compulsory Education Law, which was passed in Israel soon after the establishment of the state, applies automatically to every Arab boy and girl and is currently almost fully implemented. There is no ignoring the real progress made in enforcing the right to education for boys and girls, expressed in an increase in thousands of percents in the number of schools at all levels, and in the creation of a wide, leading stratum of Arab students in academia, despite the pitfalls and obstacles that existed and continue to exist, in the way of every Arab student. The problem lies in the other two rights: influencing the content of education and equality in education. Many researchers and reports have indicated the consistent discrimination against Arab students in Israel since its inception, both in terms of physical aspects and content. Indeed, there have been important changes in the content aspect, changes that, for lack of space, shall not be described in detail here. It is worth mentioning, though, that the curricula are nowadays written by Arab educators as opposed to in the past. However, a considerable chunk of the content is still dictated by the Ministry of Education, and schools adapt it accordingly. What is the solution, "collective rights" or "autonomy" in education? This question must be examined very thoroughly. What does "collective rights in education" actually mean? Does it entail complete separation from the general educational system and the managing of education exclusively by members of the group? Or does it entail setting uniquely Palestinian content without any reference to context; namely, the students' being citizens of the state of Israel? Or appointing principals and teachers according to criteria established exclusively by Arab supervisors? Or perhaps establishing an Arab university to have academic freedom and a high academic level, which accepts only Arab professors and students? And would all this be accomplished with full financing by the State but without its intervention?

In the current political and social reality, and for the foreseeable future, it does not seem likely that the state would allow such developments to occur. On the other hand, the mutual suspicion towards and growing alienation of young Arabs from the State, their Israeli citizenship and everything it stands for are all guaranteed ways of pushing them even farther away from the reality of their lives, towards isolationism and the creation of new problems, rather than coping with existing ones. Full

⁸ Ibid., p. 569.

autonomy can create an illusion of self-rule, but as long as financial dependence on the state is almost total, it is clear that there will be no possibility of autonomous management, and that frustration will only grow.

The right to influence educational content, which "derives from the basic right to autonomy, freedom and respect that are the basis of liberal thought,"⁹ should be granted to every citizen and every community. This right also stems from the premise that "education is a prerequisite for the preservation of 'culture' which in itself is essential for the realization of man's freedom, respect and self-identity."¹⁰

Legislation and judicial practice in Israel allows parents to have a say in educational content¹¹ and in many schools parents do indeed hold such sway. The influence of any ethnic or cultural group – or in this case, a national group – is, however, limited. Even if it does establish private schools, it cannot force parents to send their children to them.

In my opinion, in education, too, the justified demand for full equality will not find a full and satisfactory answer in the "collective rights" formula. The solution to the present distress is not necessarily through the route of separation and seclusion, but, on the contrary, via penetration of the general Israeli educational discourse so as to render it multifaceted, multi-cultural and multi-communal. This may sound Utopian, but I believe that we should aspire to a situation wherein Israeli education is grounded in true pluralism. A pluralistic educational system would enable each community to determine considerable sections of the content it wishes to impart to its sons and daughters, yet at the same time would necessitate a common core program containing Hebrew and Jewish subjects, and also, in a prominent and central place, the Arabic language, and chapters from Palestinian and Arab history and culture, side by side with values of democracy, pluralism, dialogue and exercise of common citizenship.

The discussion around collective rights has now reached its height, and draws inspiration from struggles and achievements of minorities and ethnic and national groups the world over. Concurrently with formulating guidelines for collective rights in the realms of culture and education and fleshing them out with real content, it has been suggested here to examine the long-term implications of realizing these rights for the status of Arabs in the State of Israel, and their interrelations with the Jewish community. An alternative view has been presented, one of integration and an egalitarian and common pluralistic system, as opposed to detachment and separation.

Further Reading:

Jabareen, Hassan, "Collective Rights and Reconciliation in the Constitutional Process: The Case of Israel," *Adalah's Newsletter*, Volume 12, April 2005.

Jamal, Amal, "On the Morality of Arab Collective Rights in Israel", *Adalah's Newsletter*, Volume 12, April 2005.

Yona, Yossi, *Bizchut HaHevdel* ("In Virtue of Difference") Van Leer and HaKibbutz HaMeuchad, 2005 [Hebrew].

⁹ Ibid., p. 577.

¹⁰ Ibid., p. 578.

¹¹ Ibid., p. 581.

Rabin, Yoram and Yuval Shany (eds.), "Economic, Social and Cultural Rights in Israel", Ramot Publishing, Tel Aviv University, together with the Academic Track of the College of Management, 2005 [Hebrew].

Rekhess, Elie and Sarah Ozacky-Lazar (eds.), "The Status of the Arab Minority in the Jewish National State", Tel Aviv University, 2005 [Hebrew].