

The Prohibition on Teaching the Nakba in the Arab Education System in Israel

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Over the past year, Members of the Knesset (MKs) submitted a number of legislative bills that aim to outlaw any mention of the “*Nakba*” or reference to the establishment of the State of Israel as a day of mourning. The first *Nakba* bill² proposed that “no person will conduct an activity or event that includes a reference to Independence Day as a reference to the fact that the State of Israel was established as a day of mourning or as a day of sorrow.” The bill was later amended³ to propose that no organization funded by the state could expend any funds for the purpose of conducting activity that dishonors the state’s flag or symbols. Most recently, on 9 March 2010, another bill was submitted to the Knesset⁴ according to which the Minister of Finance is authorized to withdraw budget support from an organization that acts to deny the existence of the State of Israel as a Jewish and democratic state, or refers to Israel’s Independence Day or the day of the state’s establishment as a day of mourning.

There was no doubt that the prohibition on referring to the *Nakba* as a day of mourning would apply to schools within the Arab education system. This attempt to prohibit referring to the *Nakba* as a day of mourning in general, and as it applies to organizations funded by the state in particular, constitutes a severe restriction on the freedom of political expression of the Arab minority in Israel, which as a part of the Palestinian people views the establishment of the State of Israel as a day of national tragedy and loss. However, the prohibition on referring to the *Nakba* as a day of mourning in the Arab school system has repercussions that are even more severe. The prohibition seeks to further tighten the Ministry of Education’s supervision of the curriculum in the Arab education system. This political supervision has been in place since the founding of the state. Beyond the serious violations of the right to freedom of expression, this restriction violates the pupils’ right to learn about the history, culture, and heritage of their people from its own perspective, and in particular the events of the *Nakba* that occurred in 1948 and led to the establishment of the State of Israel.

While the Ministry of Education’s supervision and control over the Arab curriculum is not new, this is the first proposal to explicitly deny the right to refer to the *Nakba* Day within the education system and other state-funded institutions. Ultimately, the Knesset did not enact these legislative proposals. However, Education Minister Gideon Sa’ar declared at the start of the current school year (2009-2010) that the Ministry of Education intended to prohibit any reference to the *Nakba* in the curriculum.

The same educational approach was also evident in 2005 when the then Education Minister, Limor Livnat, approved the “100 Concepts in Heritage, Zionist and Democracy Program” (The 100 Concepts Program). This program was designed for middle school pupils (grades 7 to 9) in both the Hebrew and Arabic school systems. Its objective was to reinforce “the strong connection that exists between the Jewish people and the land [of Israel] and its right to build itself and its institutions on this strip of land.”⁵ Pursuant to this objective, the program consisted

1 An attorney with Adalah – The Legal Center for Arab Minority Rights in Israel.

2 Independence Day Bill (Amendment – Prohibition on Citing Independence Day or the Founding of the State of Israel as a Day of Mourning) – 2009.

3 Budget Foundations Bill (Amendment – Prohibited Expenditure) – 2009.

4 Budget Foundations Bill (Amendment No. 39) (Reducing a Budget or Support Due to an Activity Violating the State’s Principles) – 2010.

5 Minister Limor Livnat’s letter of response to Adalah, dated 29 March 2005.

of three parts: concepts of democracy, Zionism, and heritage. Despite the fact that it was also applied to the Arab education system, the program contained no content about concepts related to the Palestinian Arab heritage. The teaching material on “concepts of democracy” was identical in the Arab and Jewish education systems. The “concepts of Zionism” material, which addressed concepts related to Jewish heritage, was essentially the same between the two systems of education, with only minor differences. However, the material on “concepts of heritage” differed between the Arab and Jewish education systems: in the Jewish education system it covered the cultural, religious and historical heritage of the Jewish people, whereas in the Arab education system it referred almost exclusively to the religious heritage of the Arab students – Muslims, Christians and Druze – and excluded concepts pertaining to their culture and historical heritage.

In 2008, on the 60th anniversary of the State of Israel, the Ministry of Education approved “The Program for the 60th Year of the State’s Establishment.” This program was designed for all schools, from elementary to secondary schools, both Jewish and Arab. The objectives of the program were to celebrate the 60th year of the state within the education system; to foster among the pupils a sense of belonging, pride, love and connection to the state; to assist all pupils in forging a vision for the State of Israel as a Jewish and democratic state; to promote involvement and social responsibility; and to encourage pupils to be active citizens. Pursuant to these goals, the program focused on learning about the state’s symbols and the actions of major personalities and leaders in the state’s history, as well as the state’s achievements and relations with Diaspora Jewry. In addition, this program was designed to familiarize pupils with the land of Israel and teach them about the history of the Jewish people and its connection with the State of Israel. The program was undoubtedly designed – like the 100 Concepts Program – to strengthen the connection between the pupils and the state, a goal that was also to be applied to Arab pupils.

Ultimately, these two programs were not implemented in the Arab education system due to a public and legal campaign that was launched against them. However, they undoubtedly express the beginning of an active policy by the Ministry of Education to try to strengthen the identification of Arab pupils with the Jewish people and the Zionist narrative, while completely disregarding their connection to their own people. Thus, for example, according to Prof. Yoav Peled, the impression the Arab pupils were supposed to receive from the 100 Concepts Program was that the Arab nation has no historical and cultural heritage.⁶ Peled adds that the program denied the Arab pupils the possibility of learning about their cultural and national heritage as Palestinian Arabs, and in denying this possibility, the program violated the principle of equality. By contrast, the Jewish pupils were given a full opportunity to learn about Jewish heritage, including Jewish history, culture and religion. But most egregious of all is that by deliberately denying the opportunity to strengthen any connection of the Arab pupils with their own people and heritage, the program threatened to damage the pupils’ human dignity.⁷

The imposition of the Zionist narrative in the Arab education system is reflected even more clearly in the Program for the 60th Year of the State of Israel. This program sought to force the state’s Independence Day on the Arab population, despite the fact that its significance for the Palestinian minority is completely different from that for the Jewish majority. From the perspective of the Palestinian minority, Independence Day is Nakba Day. This imposition also constitutes a serious violation of the dignity of the Arab pupils since it imposes the Zionist narrative on the Palestinian minority through the education system. Thus, the state’s goal of

6 Prof. Yoav Peled, “100 Terms Program: A Rawlsian Critique,” *Adalah Newsletter*, Vol. 27, July-August 2005.

7 Ibid.

completely severing the connection between Arab citizens of Israel and the rest of the Arab people and its history and culture would gradually be achieved.

In August 2009, Education Minister Gideon Sa'ar approved a new program aimed at strengthening values and enhancing achievements among pupils (the Sa'ar Program). The Sa'ar Program's main goals include: "to build, strengthen and implement programs to deepen Jewish, Zionist and Israeli identity"; to foster "familiarity and identity [with] Jerusalem, the capital of Israel and the Jewish people"; and "to encourage enlistment in the IDF and national-civic service." In order to implement these objectives, the Sa'ar Program stipulates that a new course of study should be adopted, namely "The Heritage and Culture of Israel", in which pupils would learn about the Jewish people, the land of Israel, Judaism and Zionism. In addition, the Sa'ar Program states that the program would be implemented in the education system by assigning more teaching hours on the Israeli national anthem, *Hatikva*, and by encouraging enlistment in the Israeli military and national-civic service. Indeed, the rate of enlistment among the former pupils of a school into the military would be one of the criteria for assessing the school's performance for the purpose of determining its future funding.

This program joins the two aforementioned programs mentioned in their common aim of strengthening the connection between the pupil and the Jewish people, the land of Israel, Judaism and Zionism. However, what distinguishes the 2009 Sa'ar Program is that it was accompanied by a declaration by the Education Minister that it would be prohibited to commemorate Nakba Day in the education system. Thus, together with the Ministry of Education's exclusion of the history and culture of the Palestinian people in the programs of study in the Arab education system, it is also actively prohibiting any commemoration of the Nakba. The adoption of the Sa'ar Program in the Arab education system not only discriminates against the Arab pupils, but also imposes the Zionist narrative on the Palestinian Arab minority in the State of Israel via the education system. This exclusion violates the right to dignity of the Palestinian minority in Israel and the values of democracy that enable a national minority to learn the history of its people. The violation of the right to dignity becomes more egregious in light of the discrimination that exists against the Palestinian minority within the education system. This discrimination perpetuates the existing gaps between the Arab and Jewish education systems and the Jewish education system and adds to the oppression of the Palestinian minority in Israel and its sense of alienation and deprivation.

These programs severely harm the Arab education system and contradict the justification for maintaining separate Jewish and Arab education systems: The Arab system is intended to provide the Palestinian Arab minority in Israel with education that meets its needs in terms of language and content, its national identity, and its religious and cultural outlook. However, the curriculum in the Arab education system is inferior in quality, level and content than the curriculum in the Jewish education system. Moreover, the curriculum taught in the Arab education system has always been designed to instill Zionist political values, while at the same time preserving and perpetuating the inferior political standing of the Palestinian minority. The institutional control over the program of study in the Arab education system is part of a draconian, unjust and strict regime of supervision imposed on the Arab education system, which aims at controlling the educational values that are communicated to Palestinian school pupils.⁸

⁸ See Al-Haj, M., Education, *Empowerment and Control: The Case of the Arabs in Israel*, Albany: State University of New York (1995); and Ismael Abu-Saad, "State-Controlled Education and Identity Formation Among the Palestinian Arab Minority in Israel," *American Behavioral Scientist*, Vol. 49 No. 8, April 2006, p. 1085.

The educational approach embodied in the above programs adopted by the Ministry of Education find support in the State Education Law – 1953, which stipulates the official objectives of state education. In setting forth the objectives of state education, Article 2 of the law uses language that mandates the undertaking of positive measures to fulfill the objectives of state education. Thus, for example, the article states that the objectives are “to educate” for the love of mankind, love of the land of Israel and to be a citizen loyal to the state; “to instill” the principles stated in the declaration of the establishment of the State of Israel and its values as a Jewish and democratic state; “to teach” the history of the land of Israel and the State of Israel; “to teach” the “Torah of Israel,” and the history, heritage and tradition of the Jewish people; “to develop” the child’s personality, creativity and talents; “to establish” the pupils’ knowledge in the various fields of science and knowledge; “to strengthen” the pupils’ ability to judge and think critically; “to provide” equality of opportunity for every boy and girl; “to foster” involvement in the life of Israeli society; and “to develop” an attitude of respect toward the natural environment and a connection to the land.

Further, other laws mandate the instilling of the Jewish-Zionist heritage through education. For example, the Yad Yitzhak Ben Zvi Law – 1969 established a cultural educational institution that aims to deepen the consciousness and educate about the continuity of the Jewish community and the development of the Zionist ideology in Israel. Similarly, the Law to Commemorate Rehavam Ze’evi – 2005 aims to perpetuate his memory⁹ and entrench knowledge about his actions and Jewish-Zionist heritage within the education system.¹⁰

In 2002, the Knesset amended the State Education Law and added a further objective that clearly and directly referenced the Arab population.¹¹ This objective states that the educational system should “acknowledge the unique language, culture, history and heritage of the Arab population and of other groups in the State of Israel, and recognize the equal rights of all citizens of Israel.” In light of the obligatory and positive language of all of the objectives cited above, the amendment pertaining to acknowledging the language and heritage of the Arab minority was merely window dressing. “Acknowledging” the unique language, history, heritage and tradition of the Arab minority is not commensurate with “educating,” “strengthening,” “establishing” or “fostering” them within the education system. It entails no requirement to adopt any positive measures to ensure equality in the education system, at least, and, at most, the right of Arab pupils to learn about their own history. Thus, despite this amendment, and despite the fact that the State Education Law ostensibly includes Arab history and heritage among its objectives, it does not ensure or require the fulfillment of this objective in practice.

The weak language of the amended State Education Law with regard to acknowledging the Arabic language, and Arab culture and history is contrary to the directives of international law. International law stipulates that states are not only required to recognize the right and freedom of minority groups to practice their culture, religion and language, but it also prohibits states from interfering in the right and freedom of minority groups to fulfill these rights. Article 27 of the International Covenant on Civil and Political Rights (ICCPR), signed and ratified by Israel in 1991, stipulates that states with linguistic, religious or ethnic minorities cannot deny them the

⁹ Rehavam Ze’evi was the founder of the extreme right-wing Zionist political movement Moledet (Homeland), the platform of which was based on the population transfer of Palestinian from the Occupied Palestinian Territories to neighboring Arab countries. He was assassinated in October 2001.

¹⁰ Ze’evi was assassinated by members of the Popular Front for the Liberation of Palestine (PFLP) in 2001. Ze’evi publicly advocated the population transfer of Palestinians from the West Bank and Gaza to Arab nations.

¹¹ Amendment to the State Education Law – 2002 and addition of Article 2(11).

right to enjoy their own culture or to use their language.¹² Article 27 does not impose a positive obligation on states to adopt positive steps to protect the rights of minorities living within it or to fulfill these rights. However, the interpretation that has been given to this article, which links it to Article 26 of the same covenant, does require States Parties to adopt positive measures to avoid discriminating against a minority group living within it.¹³ Article 26 stipulates that every person is entitled to equality before the law and that the law should prohibit any type of discrimination. It further guarantees each person equal and effective protection against discrimination based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Moreover, the interpretation of the directives of Articles 26 and 27 of the ICCPR is complemented by the directives of the International Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992.¹⁴ This declaration imposes a duty on states to enable minorities, through legislation, to enjoy the rights it sets forth. Thus, for example, the declaration requires states to respect the right of the minority to physical existence in the territory in which it resides and to protect and foster its identity. In addition, the declaration refers to the rights to culture, space and religion, and the use of the minority's language in the public and private sphere. More specifically, the declaration states that states must take positive measures in the field of education to encourage knowledge of the history, customs, language and culture of the minority. In the framework of these positive measures, the declaration states, minorities are entitled to access to suitable opportunities for acquiring full knowledge pertaining to the community in which they live.¹⁵

The International Declaration on the Rights of Indigenous Peoples, approved by the UN in 2007, establishes the right of indigenous minority groups to preserve their own culture and history. The declaration states that groups of indigenous minorities have the right to preserve the dignity of their culture, customs and history, and that these should be given suitable expression in state institutions, including in the education system. In addition, the declaration explicitly stipulates that the state is obliged to take all effective measures, in consultation with the minority group, to eliminate stereotypes and discrimination.¹⁶

This oppression of the Palestinian minority within the education system is contrary to the central role of education in shaping the individual's personality. This role requires extra care on behalf of those responsible, first and foremost the Ministry of Education, in determining programs of study that pertain to a national minority group within the state.

In today's political reality, the escalating and repeated attempts to impose the Zionist narrative on Arab pupils and sever their connection with their people, culture and history discriminates against them as an indigenous national minority. Furthermore, the attempt to deny the right of the Arab population in Israel to refer to the Nakba in the education system constitutes an act of

12 Article 27 of the ICCPR stipulates as follows: "In those States in which ethnic, religious or linguistic minorities exist persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

13 Article 26 of the ICCPR stipulates that, "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

14 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 1992.

15 See <http://www.ohchr.org/Documents/Publications/GuideMinoritiesDeclarationen.pdf>

16 Article 15 of the International Declaration on the Rights of Indigenous Peoples, 2007.

oppression and racism against them. The attempts by the Ministry of Education to prevent Arab schools from teaching the Palestinian narrative of the Nakba must be challenged, and additional teaching hours must be allocated within the Arab education system for study of the history and culture of the Palestinian people. Moreover, in order to ensure that these lessons reflect the Palestinian narrative, their content must be determined by representatives of the Palestinian minority itself.