

**OCTOBER 2000 AND THE PALESTINIAN CITIZENS OF ISRAEL –
FROM INEQUALITY TO STATELESSNESS
AN ARENDTIAN ANALYSIS OF THE PALESTINIAN MINORITY IN ISRAEL ***

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ABSTRACT

Many have researched the inferior citizenship status of the Palestinian citizens of Israel. Their status of inequality in Israel, a Jewish democratic state has been consistent ever since the establishment of the State of Israel. This inequality was unquestionably manifested following (and because of) the killing of thirteen of them by Israeli police forces during the October 2000 events. This paper aims to shed light on the unequal status of the Palestinian citizens of Israel vis-à-vis the thought and terminology of Hannah Arendt. It is through Arendt's thought on citizenship, human rights, social and political equality and statelessness that this paper shows that the status of legal inequality, which has been part and parcel of the Palestinian citizens' experience, is in effect a status of statelessness.

KEYWORDS: Israel, Palestinian-citizens/Arab-citizens, Hannah Arendt

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INTRODUCTION

When thirteen citizens are shot and killed by state police forces during demonstrations in a democratic state, a question mark, at the very least, automatically hovers over the democratic nature of said state. It is the contention of this paper that alongside that obvious question mark another one should appear, one that questions the citizenship and official status of those killed. Stated more bluntly – can one assume that those citizens who are shot and killed are in effect stateless?

Claiming that plenty has been said about the inequality of Israeli Arabs (henceforth: Palestinian citizens of Israel)² as being an injustice would not be an exaggeration. In fact, arguments about their unequal treatment under the British Mandate in Palestine, and then in the future state of Israel can already be found in Hannah Arendt's writings from the 1940's (See, for example, Arendt "To Save the Jewish Homeland" and "Zionism Reconsidered"). And so it seems of little importance and little consequence to write about Arendt's view (especially on what her view might have been) of the current status of the Palestinian citizens of Israel (henceforth: PCI). The above statement notwithstanding, there still remains much to be said of the status of the PCI, and their inequality cannot be overemphasized, especially following the October 2000 events in which thirteen of them were shot and killed by state police forces while they were protesting Israel's actions in the West Bank and Gaza Strip (henceforth: the Occupied Territories). Furthermore, as will be shown in this paper, Arendt's contribution to the issue and study of the Palestinian minority in the state of Israel goes well beyond her direct statements about it.

It is the contention of this paper that there is much importance and great consequence to be found by applying Arendt's terminology and thought to a study of the status of the PCI in general and to the October 2000 events case study in particular.

Arendt's understanding of the notion of equality in a democracy, and specifically her crucial differentiation between the concepts of *social* and *political* inequality – the inevitability of the former, and the danger of the latter – helps clarify the potential

² Two events, prior to the first Intifada are seen as catalysts for the "Palestinization" of the Arab citizens of Israel – "Land day" demonstrations, 1976 and the Lebanon war of 1982. Following these, and even more so, following the first Intifada, they have referred to themselves (and prefer to be referred to by others) as "Palestinian citizens of Israel". (Schiff, Yaari, & Friedman, 1990, pp. 178-179)

detrimental nature of legalized inequality in Israel. Additionally, her understanding of nationality, citizenship and the link between these and human rights and the creation of the nation-state sheds light on the inescapable risk faced by human rights within said nation-states. Finally, her notion of statelessness, the possession of which unavoidably leads to individuals being deprived of their human rights, is a turning point in understanding the calamity faced by the PCI: what their mere legal inequality does not point to, but their officially justified loss of the right to life shows quite clearly, is that they have become stateless citizens.

ISRAEL

CITIZENSHIP DISCOURSES

Before delving into a description and explanation of the situation and circumstances in Israel and the status of the Palestinian citizens within it, a brief glance at the different theoretical types of citizenship available in Israel is necessary. It is important to note that while the following is a theoretical discussion of citizenship discourses, the implications of belonging to one rather than the other, or even of simply using one rather than the other are in fact empirical and as such are significant to the citizens of Israel, be they Jews or Palestinians.

First, the Liberal discourse of citizenship focuses on individuals and their rights. Individuals, according to this view, are the “bearers of universal, equal, and publicly affirmed rights” and as such require and deserve to have a private sphere, which is protected from infringement by other citizens or by the state. This type of citizenship is generally assumed to apply to citizens of democratic states. A second discourse is that of communitarians, who assume that “active participation is the core of the citizens civic virtue and the criterion entitling each to differential share of the community’s material and moral resources.” This discourse, quite clearly, allows for the creation and application of a range of citizenship statuses, a range that allows for inequality based on “active participation” as defined by the state. Finally, and most critical for an analysis of the Israeli situation is the ethno-nationalist discourse. Here, rights are distributed according to membership in a nation – membership which can only be acquired via

descent – and thus this discourse in effect denies the possibility of inter-nation assimilation (Shafir & Peled, 2004, pp. 367-368).

ECONOMIC INEQUALITY

The existence of economic inequality within a society, which is considered democratic, and within a market that is by and large a capitalist market³ is not, in general, considered a problem. It is only when one considers how such inequality was created, and how it was and still is promoted and advanced by the state to effect a particular national minority, that it becomes an issue not only for those disadvantaged by it, but for the democratic nature of the state as well.

The creation of a functioning capitalist market alongside the advancement of Zionist national goals was an issue (and a problem) already faced by Jewish immigrants and settlers in the land of Palestine before the establishment of the state of Israel. Hence, the creation of a lower economic Palestinian stratum predates the establishment of the state.

On the one hand, to create a valid economic base similar to other settler societies, the Yishuv had to exploit the cheap labor of the indigenous population while, on the other hand, the fulfillment of the Zionist project necessitated successful absorption of immigrant Jews in the largest possible numbers (Sa'di, 2004, p. 233).

This state of affairs was made official by the Histadrut (the General Organization of the Hebrew Workers in the Land of Israel) when it was established in 1920 as the trade union of the *Jewish* workers, promoting the “Hebrew Work” campaign which called for more Jewish workers in the Land of Israel (then Palestine). The organization was socialist in nature and appearance, and thus was seen as devoted to working class solidarity – though this, clearly, was no more than a façade, as no Palestinian workers were part of the Histadrut until 1960 (Sa'di, 2004, pp. 233, 244).

Once the state of Israel was established, different tools and mechanisms, some more formal than others, were implemented by the state to hamper the development of the Palestinian sector. To name just a few: Agriculture in the Palestinian sector (a major

³ It is beyond the scope of this paper to discuss the socialist roots of the Israeli society and economy.

income resource for that sector) has been underdeveloped due to the expropriation of seventy percent of Palestinian-owned land by the state until 1980, and also due to discrimination in allocation of water and land to the sector. Palestinian localities have been excluded from being “high priority areas” – a status for preferable developmental zones. The Histadrut has made no considerable investments in the Palestinian sector, even while it owned over twenty-five percent of the Israeli Labor market in its heydays. Both the Jewish Agency and the World Zionist Organization, pre-statehood pro-Zionist organizations, were given special formal roles and functions, by law, in the state of Israel (Sa'di, 2004, pp. 243-244). In addition to these “subtle” forms of discrimination, the state of Israel has instituted mechanisms and policies that limit the development of the Palestinian sector. These include the regulation of the entrance of Palestinian workers into the labor market, first by restrictions on movement (until the lifting of the military rule in 1966) and later by passing laws that were clearly Jewish inclusive and Palestinian exclusive such as the Discharged Soldiers Law passed in 1984. Additionally, the separate educational system for the Palestinians which is the state-established and state-run makes for lower credentials in that sector, and thus makes for unequal competition in the labor market that is largely based on credentials. Finally, direct exclusion mechanisms have been used by various employers (among them state employers) to restrict the employment opportunities of Palestinian citizens (Sa'di, 2004, pp. 245-246).

This state of affairs in the labor market is of significance to the Israeli society as a democratic society and its importance cannot be overemphasized as it legitimizes discrimination, prejudices and stereotypes in other social and political arenas. The lower status of Palestinian workers also functions as a unifying aspect for the Jewish society, as it can see itself as one group (despite the fact that it too is internally stratified). Finally, and quite clearly, this allows the state to promote its Zionist goals of Jewish immigration without requiring the Jews “to perform physically demanding jobs in developing the infrastructure and in construction” (Sa'di, 2004, pp. 247-248).

[IN]EQUALITY BEFORE THE LAW

The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; it will safeguard the Holy Places of all religions; and it will be faithful to the principles of the Charter of the United Nations ("The Declaration of the Establishment of the State of Israel,").

Despite declaring its commitment to the equality of all its inhabitants, from its very inception the state of Israel was declared to be a Jewish state, and the homeland of the Jewish people. As such "Israel 'belongs' to persons who are defined by the Israeli authorities as 'Jewish', irrespective of where they live, and to them alone ... Israel doesn't officially 'belong' to its non-Jewish citizens, whose status is considered even officially as inferior." Moreover, over the years, despite the above quoted declaration, and as will be shown in greater detail below, "the State of Israel officially discriminates in favour of Jews and against non-Jews in many domains of life. [Among them] residency rights, the right to work and the right to equality before the law" (Shahak, 2002, pp. 3, 5).

The PCI have officially been unequal citizens since the state of Israel was established as a Jewish state in 1948, when, almost immediately, a part of the Palestinian minority, which resided in the territory of the state, was granted citizenship and placed under military rule that lasted for almost twenty years.⁴ Amongst many obvious inequalities introduced and implemented by the military rule, control over the movement (or lack thereof) of the Palestinian citizens at this point was in the hands of the Israeli establishment – as already explained, this inevitably influenced their economic status and their ability to enter the Israeli labor market, which at this point was overwhelmingly pro Jewish labor, under the Zionist ideology of "Hebrew work" (Sa'di, 2004, pp. 233-235).

⁴ Only 63,000 of the 160,000 Palestinians who stayed in the territory of the State of Israel during and after the war of 1947-48 were granted Israeli citizenship. (Peled, 1992, p. 435). This minority was a new formed one, as the Palestinian population was reduced from being 67 percent of the population before the 1948 war, to a mere 16 percent after the war. (Lowrance, 2005, p. 491; Shamir, 2005, p. 6) (Peled, 1992, p. 436; Saban, 2004, p. 891; Zreik, 2003, p. 43), with the state of Israel confiscated massive amounts of Palestinian-owned land.(Sa'di, 2004, p. 234).

Even after the military rule ended, the status of the PCI was not much improved. Acts of overt discrimination by the state can be seen in many of its laws and regulations. Even acts of clear infringement of human rights, not least of which is the right to life, have occurred in the past (i.e., prior to the October 2000 events). A short list of such rules, regulations and events should suffice to portray the image and status of the PCI.

The Law of Return, passed in 1950, the Nationality Law, passed in 1952 and the Entry into Israel Law, also passed in 1952,⁵ all guarantee, to this day (with few amendments), that immigration quotas in Israel are “exclusively allocated to the Jewish majority community.” A right of allocation used to be granted to the Palestinian minority only for the purpose of family unification (mostly with Palestinians residing in the Occupied Territories), but even this right has been infringed upon by the passing of the Nationality and Entry into Israel Law (Temporary Order) in 2003 (Saban, 2004, pp. 961-962).

The Law of Return, stating that every Jew has a right to immigrate to the state of Israel raised the question of who is a Jew in the eyes of the law (the Jewish religion has a clear definition). Following the Jewish religion which has a strict and restricted definition “came into conflict with the demographic aim of Zionism to produce, maintain, and increase the Jewish majority in Israel.” The law was amended in 1970 in such a way that a Jew was defined as anyone with one Jewish grandparent. The unintended and paradoxical outcome of this amendment was the creation of a “new non-Jewish, non-Palestinian ethnic group” (Shafir & Peled, 2004, p. 370). While the creation of this group is not necessarily to the benefit or detriment of either the Palestinian or Jewish citizens, the Law of Return, quite clearly, limits the ability of the Palestinian citizens to expand their community, while allowing the Jewish citizenry to grow.

An additional cause of Palestinian inequality is the citizen civil duty of military service. An obligatory requirement of every Jewish citizen of Israel, military service has always been denied the PCI for obvious reasons.⁶ No alternative national service has ever been instituted for them. Many social rights and benefits that stem from the obligatory

⁵ See "Entry Into Israel Law," 1952; "Law of Return," 1950; "Nationality Law," 1952.

⁶ All of Israel's wars have been waged on or by its Arab neighbors, and it is questionable whether the Palestinian citizens of Israel should or would be fighting against their brethren.

military service, and as such are given to Jewish citizens of Israel, are in effect denied the PCI without possibility of acquiring them in any other way (Peled, 1992, p. 436).

In terms of political participation rights, while allowed to vote, form parties, and be elected to the Israeli parliament (Knesset) the amendment to Basic Law: The Knesset, issued in 1985,⁷ provides specific limitations on the nature of political parties that are to be permitted to run for the Knesset. This law makes clear the distinction between the Jewish nature of the state of Israel – as a party is not allowed to negate “the existence of the State of Israel as the state of the Jewish people” – and the state’s commitment to a notion of equality before the law (implied in its “democratic character”). Thus, the amendment to the law made clear the status of the PCI – they have rights as individuals, but are excluded from the political process as a group with its own demands, as these might contradict the demands of the Jewish majority (Shafir & Peled, 2004, p. 371).

Finally, the unequal treatment of the PCI extends to their rights (or lack thereof) to acquire and possess land as well. The Absentees’ Property Law of 1950⁸ was designed to expropriate the lands of those who had fled their homes during the war of 1948. Later, Basic Law: Israel Lands, of 1960,⁹ was set to limit the legal possibility of Palestinian citizens to acquire land, thus limiting their ability to expand their communities, at least geographically so.

Two events that had previously led to the killing of PCI by state security forces must be noted. On October 29, 1956, while under military rule, forty-nine PCI were shot and killed by Israeli police forces in Kafar Qasem for breaking a military curfew they were not aware of. On March 30, 1976, six PCI were shot and killed by Israeli police and army forces, during demonstrations against the Israeli expropriation of Arab lands (Lowrance, 2005, p. 497; Slone, 2003, p. 821). The former case led to the trial, conviction and imprisonment of several Border Policemen, and the introduction of the notion of a manifestly illegal order – that which soldiers must disobey as “a black flag waves over it” (Bilsky, 2004, p. 170). Both Palestinian and Jewish citizens of Israel commemorate the latter, “Land Day,” to this day.

⁷ See "Basic Law: The Knesset (Amendment No. 9)," 1985.

⁸ See "Absentees' Property Law," 1950.

⁹ See "Basic Law: Israel Lands," 1960.

Being quite literally and legally placed in an inferior position in terms of their status, as compared to that of the Jewish citizens of Israel, and in a place of geographical as well as legal alienation from their Palestinian brethren in the Occupied Territories, the PCI have protested both these positions ever since the mid-1970s (Lowrance, 2005, p. 497), and to a greater extent during the first *Intifada* (1989 through the early to mid 1990s) (Peled, 1992, p. 440). It is through their identification with their Palestinian brethren that the PCI have gained a sense of national identity and are able to resist (at least symbolically) their limited identification with their own state and citizenship provider – Israel (Lowrance, 2005, p. 488).

OCTOBER 2000

During the first two weeks of October 2000, coinciding with and following the beginning of what was to be called the *Al-Aqsa Intifada* (the second Palestinian uprising in the Occupied Territories), several thousand PCI showed their support for their Palestinian brethren in the Occupied Territories by demonstrating in many Arab villages and towns throughout Israel (Saban, 2004, p. 895).

As was the case in many prior demonstrations held by Palestinian and Jewish citizens alike, the demonstrations of October 2000 included the waving of flags and placards, burning of tires, blocking of roads, and general expressions of discontent with the actions the state of Israel was taking in the Occupied Territories. Also, as in all cases of demonstrations, Israeli police forces were sent in to maintain order. However, unlike other such events, order was to be maintained by the use of live ammunition – police forces shot and killed thirteen demonstrators (Bishara, 2001, p. 54; Hammami & Tamari, 2001, p. 13; Saban, 2004, pp. 895-896). This in turn led to even greater outrage among PCI, who demanded that the events be investigated and conclusions, both systemic and personal, drawn and implemented.

A state inspection committee, the Or Commission of Inquiry, was set up on November 8, 2000 to inquire into these dire events. Allowing for at least the appearance of equality and importance, the commission was headed by Supreme Court justice Theodor Or and included, amongst its members, an Arab district-court judge, Hashim

Khattib. The commission submitted its recommendations on September 1, 2003. The main points read as follows: First, recommendations were made for the remedy of past wrongs and deep disparities between the Jewish and Palestinian communities in Israel in terms of material, symbolic and political resources. Second, the report pointed at the bitter relations between the police forces and the Palestinian minority, and recommended “significant changes in police attitudes towards minorities.” Finally, the commission went as far as to provide recommendations regarding certain persons in the chain of command, going as high up as the former Prime Minister of Israel, Ehud Barak (Saban, 2004, pp. 897-898).

The Israeli government accepted the commission’s report and its recommendations, in principle, and appointed a ministerial committee headed by Deputy Prime Minister and Minister of Justice at the time, Yosef Lapid, which was to study the Or Commission’s report and present its own recommendations as to the implementation required in the various issue areas mentioned in the original report: municipal services, industrial development, land, employment, proper representation, education and the Bedouins (Shamir, 2005, pp. 5, 17). The practical implementation of all these recommendations remains, to this day, partial at best. Furthermore, the complete obliteration of the demand for justice by the families of those killed during the October 2000 events came in January 2008, when Attorney General Menachem Mazuz announced the final, official, closing of their case.

In order to comprehend the severity of this recent decision, a brief review of the Or commission report, the Lapid Committee recommendations, and the course of events that led to it, should suffice. With respect to all the above-mentioned issues and the overall state/systemic responsibility, both the Or Commission and the Lapid Committee were in agreement, pointing to an unequal allocation of resources to Palestinian municipalities and communities. Both were also in general agreement in describing the steps that should be taken in order to rectify these wrongs (Shamir, 2005, pp. 18-26). In terms of personal responsibility, the Or Commission claimed that certain individuals

might be liable for further investigation following the conclusions reached by its inquiry.¹⁰

In fact, the commission found that

... both the Minister of Internal Security and the Prime Minister failed to fulfill their duty at the time to provide proper supervision and appropriate guidelines to the police in all aspects of the use of lethal weapons or request a full and detailed concrete report as soon as possible on the conduct of the police during the events in which civilians were killed, and on the reasons for the grave outcomes of these events (Or, 2006, p. 41).

And yet, neither one of the abovementioned individuals has ever faced legal charges due to their criminal negligence. Additionally, the Or Commission requested that the Police Investigations Department (PID) investigate all fatalities caused during the October 2000 events and those responsible for them. However, in 2005 the PID published its own report, titled “Conclusions in the Matter of the Confrontational Events between Security Forces and Israeli Citizens in October 2000,” which concluded that no one is to be indicted for any of the incidents. The explanations given for this conclusion ranged from lack of evidence, lack of sufficient evidence, and offender unknown, to *no offense committed* (Shamir, 2005, pp. 26-27). It is important to note that although it failed to indict anyone for the deaths of thirteen citizens, the police department was in fact said to have “addressed the Commission’s findings, conclusions and recommendations in a thorough and systematic manner” (Or, 2006, p. 42).

Following the PID’s decision to close the case, Adalah, the Legal Center for Arab Minority Rights in Israel, claimed that it was “unthinkable that no indictments were filed, even in cases in which the Or Commission had pointed out suspects” (Stern, 2006).

¹⁰ Mr. Ehud Barak, Prime Minister at the time; Prof. Shlomo Ben Ami, Minister of Internal Security at the time; Sheikh Ra’ed Salah, Mayor of Umm al-Fahem at the time; Dr. Azmi Bishara, Member of Knesset at the time; Mr. Abdel Malek Dahamshe, Member of Knesset and head of the United Arab list party at the time; Mr. Yehuda Vilk, police commissioner at the time; Mr. Alexander (Alik) Ron, police Major General at the time, commander of the Northern Police District prior to and during the events; Mr. Moshe Waldman, police Brigadier General, commander of the Amakim Region police during the events; Mr. Benzy Sau, police Brigadier General, Northern District commander of the Border Police, and commander of the Wadi Ara area during the events; Mr. Yaron Meir, police chief superintendent, police operations officer for the Galilee Region and commander of the Misgav area during the events; Mr. Shmuel Mermelstein, police chief superintendent, commander of the Nazareth police station during the events; Mr. Guy Raif, police superintendent, commander of the Misgav police station during the events; Mr. N.Y., police master sergeant, policeman in the anti-terrorist unit during the events; Mr. Murshad Rashed, Border Police officer during the events. (Israel)

Further attempts to settle the case, such as a one-time payout by the state to families of victims, on condition that the case would be forever closed, were rejected by the families and the PCI community at large (Stern & Khoury). Following the PID report, and due to outrage in Israel's Palestinian community, the case was investigated by the state Prosecutor's office, who suggested not to overturn the decision reached by the PID (Zino, 2008). Finally, on January 27, 2008, Israel's Attorney General, Menachem Mazuz, decided to close the case of the October 2000 events and to refrain from indicting any police officer or other officials involved in the case. His reasons were the time that had passed since the incidents and "the fact that the incident involved the use of operational judgment in an emergency situation, under circumstances that don't justify the casting of criminal blame, as opposed to the taking of command procedures" (Yoaz & Stern). While this decision is in effect the highest official one that can be given in the state of Israel, and provides a very final "case closed", Adalah has already said that the organization will turn to the United Nations in their attempt to seek justice for the deaths of thirteen PCI (Yoaz, 2008).

ISRAEL: REALITY VIS-À-VIS ARENDT

THE PUBLIC SPHERE

Arendt's discussion of the public sphere is relevant to the case at hand as long as we realize and acknowledge that in the absence of an Arendtian public sphere, active citizenship does not occur and cannot, in turn, activate a renewing public sphere. The practice of citizenship depends on the public sphere as a place where common reflection and deliberation about political matters can take place. Critical to the Israeli case is also the ability of the act of citizenship to create a public identity "based on the values of solidarity, autonomy, and the acknowledgement of difference," and to effectively lead to political agency and influence of individuals and groups on politics. Finally, active citizenship in a public sphere is seen as a crucial element of a democratic political culture (d'Entrèves, 1992, p. 165).

The question of what makes for a political and social *community* is also of great importance to the case at hand, for if one can show that the Israeli political and social

structures are ones that have not catered to the creation of a true community then many of the legal, moral and ethical questions surrounding the October 2000 events become less troublesome to understand, if not less troublesome to condone. It is here that Arendt's thought on the public sphere gives us a first critical insight into the Israeli case. For Arendt, the unity of a political community is not to be found in "religious or ethnic affinity, nor the expression of some common value system." The unity of a political community is both the product of the arena in which politics takes place, and its producer: the arena that is created by the political activity and which cannot exist without it. Furthermore, this understanding of unity, and Arendt's insistence on participatory democracy, lead to the very clear conclusion that such a democracy, such political unity, does not require "value integration" (d'Entrèves, 1992, pp. 152-153, 162). It is the ability of the public sphere to incorporate differences "in origin, culture and creed" that is testament to its strength and the strength of citizenship held by all those who partake in it (Dahrendorf, 1994, p. 17). A final aspect of the public sphere, which needs to be noted, is that which differentiates it from the private concerns of individuals. The needs, concerns and interests of individuals as individuals are not the same as their needs, concerns and interests as citizens:

The 'public good,' the concerns of the citizen, is indeed the common good because it is located in the *world* which we have in common *without owning it*. Quite frequently, it will be antagonistic to whatever we may deem good to ourselves in our private existence (Arendt, 1977, p. 104).

Being a citizen is thus clearly not an easy endeavor and requires one to hold and strive towards both the self-interest and the public good even though these might contradict one another. It is the ability to do this, and to act, as a citizen for the public good that Arendt terms "impartiality", and she in fact recognizes that this impartiality is "resisted at every turn" (Arendt, 1977, p. 105). It appears that this impartiality was lacking if not altogether vanished in the October 2000 case.

EQUALITY – POLITICAL VS. SOCIAL

Accounts of democracy and its characteristics list both equality of all citizens and minority rights as basic tenets of democracy (Lowrance, 2005, p. 489). Based on this, one

can rightfully criticize Israel's status as a democracy¹¹ and claim that its officially legalized unequal treatment of its Palestinian citizens is that which can explain all levels of their inequality. This, however, would be too simple an explanation, and one that remains ignorant of other, more interesting levels of analysis. It is here that a look at Arendt's specific terminology provides us with a more in-depth analysis and understanding of the situation at hand.

Equality, according to Arendt, assumes differences, and so when we speak of equality in society and in politics "we must always ask what equalizes us" (Arendt, 1977, p. 105). Any discussion of equality, or lack thereof, must recognize the existence of innate differences between individuals and must also recognize the systems, mechanisms or even social forces that equalize these differences.

Arendt's discussion of equality as a political necessity, versus a social burden, is fascinating and dreadfully relevant to our current topic, as it provides a much-needed emphasis on the illegitimacy of discriminatory acts as political acts – i.e., as acts ordered, performed, and eventually fully, legally justified by political bodies of the state. While it is not the intention of this paper to claim that such acts would have been legitimate had they been performed strictly in the social sphere, the distinction presented by Arendt between the need for political equality and the dangers of social equality shows that the actions taken by Israeli police forces in the October 2000 events were not only illegal and an infringement on human rights, they were also a sign that Israel is on a path away from being a democracy – for "[s]ocial standards are not legal standards and if legislature follows social prejudice, society has become tyrannical" (Arendt, 2003, p. 208).

Arendt very clearly claims that inequalities in society are not only to be tolerated but are also needed in some sense. It is our natural inequalities and differences that allow us to form groups in society, associate with others, and promote our particular group interests. Arendt goes as far as to say that these are *only* possible due to social discrimination – "without discrimination of some sort, society would simply cease to exist and very important possibilities of free association and group formation would disappear" (Arendt, 2003, p. 205). When social conditions, through legislation, are made

¹¹ This has been done by many including Sammy Smooha, Yoav Peled, Oren Yiftachel, As'ad Ghanem, and Nadim Rouhana just to name a few.

equal, it becomes impossible for individuals to understand what it is that makes them unequal. In a sense, social equality goes against our natural inequality that, according to Arendt, is the basis of a vibrant, healthy, society.

Indeed

... the more equal people have become in every respect, and the more equality permeates the whole texture of society, the more will differences be resented, the more conspicuous will those become who are visibly and by nature unlike the others (Arendt, 2003, p. 200).

The unnatural equalization of the social sphere makes those who are naturally unequal become more noticeable, more visible to others. A consequence of this is that these groups and individuals become in effect more and more unequal (Arendt, 2000, p. 75).

Speaking of desegregation legislation in the United States, Arendt concludes

... discrimination is as indispensable a social right as equality is a political right. The question is not how to abolish discrimination, but how to keep it confined within the social sphere, where it is legitimate, and prevent its trespassing on the political and the personal sphere, where it is destructive (Arendt, 2003, p. 206).

Hence, it is *not* inequality *per se* that is detrimental to a state, but rather legalized social equality. In other words, it is only when natural social inequality is permeated by the political sphere and is forced to become equal, that it becomes a danger to the state as a whole (and most certainly to its being a democracy).

The moment social discrimination is legally enforced, it becomes persecution ... The moment social discrimination is legally abolished, the freedom of society is violated ... The government can legitimately take no steps against social discrimination because government can act only in the name of equality – a principle which does not obtain in the social sphere (Arendt, 2003, p. 209).

Stated in contra positive to the case at hand, as her argument was made against the legal equalization of the social, and not the legal de-equalization of the political, Arendt's argument could not be clearer – it is the duty of the government to maintain political equality, regardless and despite the necessary absence of equality in the social sphere.

The implications of this line of argument to Israel as a democracy in general, and to the Palestinian citizenry in particular, are disastrous. While their social inequality might be a necessary condition for their group association and for the existence of a vibrant society as a whole, their political inequality, the legalization of their social

inequality, carries within it at least the potential demise of democracy in Israel, and with it, the loss of rights possessed by the Palestinian citizens of Israel.

This state of affairs, the political inequality of the PCI, is not the only insight one can gain by applying Arendt's terminology to the present case study. The questions of nationality, human rights and statelessness raised by Arendt following World War II in fact hold an additional, unexpected relevance to it.

NATIONALITY

As is often the case when deciphering Arendt's writing and thought, a look into several distinctions and concepts is necessary. This indeed is the case if one is to understand the importance she grants to the notion (and practice) of nationality. Specifically, one must understand her differentiation between *nation* and *state*, her understanding of *nation-states*, and, as a consequence of these, her clear warning regarding those individuals whom nation-states are not held accountable for.

According to Arendt, a people becomes a nation when it takes conscience of itself according to its history; as such it is attached to the soil which is the product of past labor and where history has left its traces. It represents the "milieu" into which man is born, a closed society to which one belongs by right of birth (Arendt, 2005, p. 208).

A nation, Arendt claims, is a product of history that is dependent on one's (and a group's) consciousness of itself. It is granted by right of birth and as such creates a closed society – a society that by its nature can only include those who, again, by right of birth, belong to it. Both the Jewish and the Palestinian citizenry in Israel fit Arendt's definition of a nation and in fact claim to be nations. Both are closed societies, open only to those who are included by birth or by marriage (usually open only to those already part of the nation, or those who have converted to it).

A state is defined by Arendt as an open society, which is defined by a territory protected by its power and law.

As a legal institution, the state knows only citizens no matter of what nationality; its legal order is open to all who happen to live on its territory. As a power institution, the state may claim more territory and become aggressive –

an attitude which is quite alien to the national body which, on the contrary, has put an end to migrations (Arendt, 2005, p. 208).

Hence, the state has the legal ability (perhaps even responsibility) to protect its **citizens**, be they of whatever **nationality** they happen to be, and also the ability to expand – a characteristic that the nation lacks by definition, as it only expands internally, by those who join it by birth. So while the state’s legal ability of protection may be beneficial to the nation, its expansionist character seems to go against a nation’s most inner grain. It is the notion and indeed the creation of the nation-state that seems to have solved this problem.

Had the state of Israel been a state as is defined by Arendt, it would legally protect all its citizens. Israel, however, was established as the state in which the Jewish people would “rebuild its national home,” (“The Declaration of the Establishment of the State of Israel,”) and thus is a *bona fide* **nation-state**. It is the national home of the Jewish people. As such one has to wonder what sort of protection it provides, could provide or should provide, if any, to those who are of a different nationality.

The conditions for the rise of the nation-state that Arendt points to are essentially those that would describe a nation – i.e. “homogeneity of population and rootedness in the soil” (Arendt, 1958, p. 270). However, when these are applied to a state, the assumption is that the state will protect *only* those of a certain nationality, and should it expand, it will do so for the benefit of a particular nation. This has reversed the state’s original function as a defender of the rights of men (any citizen), and means that for nation-states specific nationals are seen as full-fledged citizens, and only they deserve the complete, unquestionable protection of the state. In other words, the notion of the nation-state has “... resulted in the confusion of the rights of men with the rights of nationals or with national rights” (Arendt, 2005, p. 208). The result, almost inevitably, of the joining together of the nation and the state, according to Arendt, was the transformation of the state from a defender and protector of the rights of men to one that defends national rights – those rights that belong to certain groups, acknowledged and identified by birth.

But what of minorities? What of nations that do not possess a state? What of those who through no fault or deed of their own find themselves under the jurisdiction of

another nation's state? What of states who find themselves responsible for more than one national group?

It is the rise of the nation-state that meant "... only nationals could be citizens, only people of the same national origin could enjoy the full protection of legal institutions," and as a consequence of this, those of different nationality, who thus became minorities in the states where they found themselves through the course of history, had no legal protection, or minimal protection, at best, only if they had been "completely assimilated and divorced from their origin" (Arendt, 1958, p. 275).

Indeed, Arendt clearly states that "[a]ll politics dealing with minorities ... have foundered on the existent and abiding fact of state sovereignty" (Arendt, 2007, p. 127). Minorities, especially national minorities, do not seem to have a recognized political space where they are protected in their actions, and in effect simply in being. Moreover, one's claim to nationality, and the existence of a nation-state that corresponds to that nationality, provides not only domestic, local protection, but also international protection (Weissbrodt & Collins, 2006, p. 248). It is here, in the reliance of individuals on the nation-state's protection of the rights of men, that Arendt finds the connection to, and ultimate obliteration of, human rights, especially those of national minorities:

The worst factor in this situation was ... that the nationally frustrated population was firmly convinced – as was everybody else – that true freedom, true emancipation, and true popular sovereignty could be attained only with full national emancipation, that people without their own national government were deprived of human rights (Arendt, 1958, p. 272).

The choice that nation-states faced when dealing with national minorities in their midst was one between their assimilation and liquidation (Arendt, 1958, p. 273). It is in the nature of the nation-state that it could not accept national minorities into its midst, without at the same time relinquishing one of its own characteristics (i.e., the fact of belonging to a nation). And so the choice was really no choice at all, and it is this nature of the nation-state that has led to some dire historical consequences. As the complete assimilation of the Palestinian citizens of Israel is unimaginable so long as the state of Israel remains the nation-state of the Jewish people (and without requiring them to renounce their own national identity), one need not go far to imagine and understand what the status of these citizens must be and must remain.

RIGHTS AND STATELESSNESS

Article 15 of the Universal Declaration of Human Rights says, “everyone has the right to a nationality ... no one shall be arbitrarily deprived of his nationality” (1948) thus making the connection between having rights and having a nationality not only clear, but also essential. And while this might seem to go hand in hand with an even clearer (some might say naïve) assumption that “[t]he principles of human rights would maintain that being human is the right to have human rights” (Weissbrodt & Collins, 2006, p. 248), there is no doubt that the notion that nationality in and of itself is a human right may lead (and according to Arendt does lead) to the lesser importance given to individuals’ humanity as opposed to that given to their nationality. Indeed, the power granted to states as those responsible for the rights of men (later to be termed “human rights”) has enabled states to control those same rights that were established as inalienable and independent. Human rights thus became “dependent on a particular, that is, alien power to guarantee them, and [were] thus exposed to the arbitrary will and the special interests of this power” (Hamacher, 2004, p. 350). It is with this reversal of importance between humanity and nationality, and with the extraordinary power given to the state as the protector of human rights, that Arendt’s thought on statelessness is not only unique but also invaluable.

However, before turning to Arendt’s distinct description and understanding of statelessness, it is crucial to understand that this human condition is not foreign to legal international discourse and indeed, reality, and as such has already required international solutions and acknowledgement. A stateless person is “a person who is not considered as a national by any State under the operation of its law.” This is a *de jure* definition, purely and strictly legal, and it “excludes those persons whose citizenship is practically useless or who cannot prove or verify their nationality ... persons with no effective nationality are, for all practical purposes, stateless, and should be labeled and treated as such.” And so, a *de facto* understanding of statelessness is also necessary for a complete understanding of the condition of statelessness – “[P]ersons who are *de facto* stateless might have legal claim to the benefits of nationality but are not, for a variety of reasons, able to enjoy these benefits.” International law also acknowledges that “most persons

considered *de facto* stateless are the victims of state repression” (Weissbrodt & Collins, 2006, pp. 251-252, 263).

While Arendt does not digress much either from the *de jure* legal definition or from the *de facto* addition to it, both are of very little significance for her discussion of statelessness. Arendt, reporting on historical events, is mostly concerned with the social and political consequences (both national and international) of the creation and existence of many new stateless people during World War II and in its aftermath. Furthermore, Arendt sees the troublesome condition of the stateless as a product of the concept of nationalism and traces the loss of rights in general and human rights in particular of such people to the designation of the state as the protector of human rights.

As has already been mentioned, the connection made between being sovereign as a nation (i.e., being a nation in possession of a nation-state) and having protection of one’s rights (provided by the nation-state both domestically and internationally) was, according to Arendt, detrimental to the conception of human rights based on one’s bare humanity. The notion of human rights became linked to citizenship and as such became meaningless to those who did not hold a citizenship. Clearly, “with citizenship being the ‘right to have rights,’ stateless persons have traditionally been seen as having no rights” (Weissbrodt & Collins, 2006, p. 248). It is the loss of legal status as a citizen that in effect has enabled states to officially deprive those without citizenship of their rights, and it is this legitimized deprivation of human rights that has led to the stateless being “deprived of their minimal human right – the right to live – and [potentially] subject of state-organized murder” (Hamacher, 2004, p. 350).

The events of October 2000 and the eventual recent closing of the case by Attorney General Mazuz present a seemingly opposite picture to that depicted by Arendt, and yet it seems that the consequences are similar. The *de facto* justification of the killing of thirteen PCI is one and the same as depriving them (the Palestinian citizenry) of their right to life. And those who are deprived of this basic right are in effect deprived of their human rights.

Interestingly, Arendt claims that the loss of human rights only became an issue when states were required, through historical circumstances, to deal with those who are stateless. In other words, exactly those rights that were declared and designed to be

independent and inalienable turned out to be those that could not be enforced independently of citizenship – “whenever people appeared who were no longer citizens of any sovereign state ... [human rights] proved to be unenforceable” (Arendt, 1958, p. 293).

Again, looking at the plight of the Palestinian citizens of Israel one must concede that they do, in effect, possess a citizenship, an Israeli one, and yet the inability of the state of Israel to enforce their human rights (and the actual *de facto* infringement of them) would appear to at least beg the question of the worth of this *de jure* citizenship.

A final important aspect of the status of statelessness and being “rightless” presented by Arendt is not that those individuals *necessarily* suffer the deprivation of

life, liberty and the pursuit of happiness, or of equality before the law and freedom of opinion – formulas which were designed to solve problems *within* given communities – but that they no longer belong to any community whatsoever (Arendt, 1958, p. 295).

The community that the stateless and rightless are lacking is that which enables individuals’ recognition by others; it is in fact the sovereign community. The loss of a community, the loss of its protection, is harmful to the stateless not because it leads to a *certain* loss of life, but because it opens up the *potential* for such loss. It is the unpredictability of life and death that is inflicted on the stateless, who cannot ever know what their future holds – “Privileges in some cases, injustices in most, blessings and doom are meted out to them according to accident and without any relation whatsoever to what they do, did, or may do.” (Arendt, 1958, p. 296)

It is, in fact, this aspect that seals the deal, so to speak, on the status of the Palestinian citizens of Israel. It is the unpredictability of their life as citizens of a nation-state in which they are a national minority, the potential injustice and doom unrelated to individual action, which makes the Palestinian citizens of Israel a stateless, rightless community, albeit a community that holds an internationally acknowledged citizenship.

EPILOGUE¹²

An internal document plainly titled "Arab Society and the Elections for the 18th Knesset" was prepared in late 2007 by the bureau of National Infrastructures Minister, Benjamin Ben-Eliezer, head of the ministerial committee on "non-Jewish sector issues," and was revealed in "Haaretz" by reporter Akiva Eldar on February 29, 2008. This report and the article exposing it are of special interest to this paper and its claims.

Basing its conclusions on voter turnout statistics for the Palestinian citizenry since the elections for the 14th Knesset in 1996,¹³ the document, with its fatalist subtitle: "Arab Representation in the Knesset in Danger," claims not only that there is a real danger that less than fifty percent of the PCI would vote in the next election, but also that, should this happen, it is very likely that the Palestinian citizenry will unilaterally disengage itself from the state of Israel, vote for its own parliament and declare independence, in a similar manner to the recent declaration of independence of Kosovo.

Boycotting of elections is a political act, and, looking at the dimensions of the ongoing boycott mentioned in the study, Arendt's terminology resonates loudly. It is claimed that the PCI boycott elections to the Knesset "as protest of Israel's policy toward residents of the territories or against the living conditions of Israeli Arabs." In other words, the motivations for this boycott are both their identification with their Palestinian brethren, i.e. their nation, and their own plight with regard to their inequality to the Jewish citizenry, namely, their inequality within their own state. A second motivation is said to be the realization of the Palestinian citizenry that it cannot possibly attain any political gains within Israel, the way its political system is set up, "without paying the price of granting legitimacy to the Jewish state." It is specifically their political inequality, and their inability to equalize their situation while maintaining their nationality, that are reflected in the Palestinian citizenry's ongoing boycott. Finally, the boycott is seen to be a manifestation of the desire of this sector to redefine its citizenship as a minority. A possible secession, a possible declaration of independence, would most definitely redefine the citizenship status of the Palestinian citizens of Israel. But even a more minimal step of establishing a set of independent, separate civil institutions would

¹² All the information, data, and quotes in what follows are taken from: (Eldar, "The Arab boycott".)

¹³ Voter turnout of Palestinian citizens of Israel has declined from 77% in 1996 to 56% in 2003.

send a clear message of dissatisfaction with the current system and perhaps provide the Palestinian citizenry with a new type of citizenship – one that they control and that thus is not laden with unpredictability. Another aspect that is worth mentioning is the general agreement by all those quoted in the article of the role the state of Israel has played in the creation of this frustration, dissatisfaction and discontentment among its Palestinian citizenry. Ben-Eliezer himself claims “The way we've treated them since 1948 ... has pushed them into alienation and despair. We're in a sociopolitical process whose end is predictable ... if we don't stop it, we ourselves will turn them into a fifth column.” Finally, and not surprisingly, the article mentions the conclusions and recommendations of the Or Commission, and quotes Dr. Danny Gera, an expert on Israel’s Palestinian sector who was also an advisor to the Interior Committee regarding the implementation of the Or Commission report, who says that not much has been done to address the blatant inequality of the PCI. It seems that the Or Commission, and the October 2000 events themselves, served only to bring the issue of Palestinian inequality to the surface, and even that only for a limited time.

The internal report shows beyond any doubt that the PCI do not and *cannot* see themselves as citizens of the state of Israel – as such, and before the actualization of the secessionist prophecy, it seems that the only term applicable to them is stateless citizens.

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OCTOBER 2000 AND THE PALESTINIAN CITIZENS OF ISRAEL – FROM INEQUALITY TO STATELESSNESS AN ARENDTIAN ANALYSIS OF THE PALESTINIAN MINORITY IN ISRAEL

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