Case Study: Palestine/Israel

1. **Historic Timeline**¹

- Following World War I and the collapse of the Ottoman Empire, The League of Nations creates a British Mandate for Palestine. Under this mandate, plans are drawn for the creation of a Jewish State.
- After World War II, the British terminate the Mandate and responsibility for the area is passed to the UN. In 1947, the UN GA approves a partition plan for the creation of separate Jewish and Arab states. Israel declares independence in 1948, and the 1948 Arab-Israeli War ensues. As a result of the war, the lands of Palestine not belonging to Israel are divided amongst Syria, Jordan, and Egypt.
- As a result of the Six Day War in 1967, Israel captures the lands known as the West Bank and Gaza Strip from Jordan and Egypt, respectively.
- The Oslo Accords are signed in 1993, establishing the Palestinian National Authority, which is to hold limited administrative control over certain parts of the occupied territories.
- In 2005, Israel evacuates all Jewish settlements from the Gaza Strip.

2. **Population**²

- Population figures are a contentious issue with regards to Palestine/Israel. Specifically, there is debate over the amount of Arabs living in “Palestine” around the turn of the 20th century when Zionist immigration began. Further, there is the question of population figures at the time of Israeli independence in 1948, and consequently the amount of Arab refugees forced to leave Israel. The official UN tally of refugees at the time of Israeli independence is 711,000.
- Current relevant population numbers are:
  - Israel has a population of 6.4 million, with 1.6 Arab minorities.
  - Gaza Strip has a population just under 1.5 million
  - West Bank has a population of 2.5 million, of which perhaps 200,000 are Jewish settlers.

3. **The legal framework**

**Legal Sources in Israel**

- Israel has ratified the most important international human rights conventions, which contain minority rights protections mainly the two Covenants and The CRC, and is bounded by the Draft Declaration and the ILO 169.³
- Since the establishment of the State of Israel in 1948, the protection of human rights has fallen to the judiciary, for Israel has no formal constitution or Bill of Rights. The Judiciary is guided by the closest thing you come to a constitution, namely The Basic Laws.

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¹ [http://www.mideastweb.org/timeline](http://www.mideastweb.org/timeline)
³ Arab association of Human Rights - [http://www.arabhra.org/index.htm](http://www.arabhra.org/index.htm)
Israel has left the preexisting law of family relations virtually untouched. Thus, religious law (Jewish, Moslem, Christian, etc.) applies as a source of law in matters relating to marriage and divorce, litigated before religious courts. Such application is subject to the law of the land and to the supervision of the Supreme Court.

**The Palestinian Minority**

Israel's Declaration of Independence (1948) states two principles important for understanding the legal status of Palestinian citizens of Israel.

1. First, the Declaration refers specifically to Israel as a "Jewish state" committed to the "ingathering of the exiles.", but only one reference to the maintenance of complete equality of political and social rights for all its citizens, irrespective of race, religion, or sex.
2. Second, the universal status of each citizen in a democracy.

The Conflict here is to balance the rights of a minority in a state that is explicitly set up for the majority.

**The Basic Laws**

- The Basic Law: Human Dignity and Liberty empowers the Supreme Court to overturn Knesset laws which are incompatible with the following enumerated rights: the rights to dignity, life, freedom, privacy, property, and the right to leave and enter the country.

- While the right to equality is not expressly included, a 1994 amendment to this Basic Law states that the principles enunciated in the Declaration of Independence are part of the values protected by the Basic Law. As a Supreme Court panel stated in 1994, "The equality principle is incorporated in the Basic Law: Human Dignity and Liberty. This incorporation means that the principle of equality is raised to the level of a high normative constitutional right."

**Minority Rights**

Despite Israel's ratification of the ICCPR and its guarantee to protect all of its citizens against discrimination, Palestinian Arab citizens in Israel are discriminated against in a variety of forms and denied equal individual rights because of their national belonging. Though this discrimination is politically motivated, the Israeli legal system is part of this political context. As well as offering limited provisions for equality or political participation to members of the Palestinian Arab minority, the law in Israel subjects them to three types of discrimination: direct discrimination against non-Jews within the law itself, indirect discrimination through "neutral" laws and criteria which apply principally to Palestinians, and institutional discrimination through a legal framework that facilitates a systematic pattern of privileges.

**4. The political framework**

**How does it relate to ethnic diversity?**

Parliamentary Democracy (no formal constitution)

- **Executive Branch:**
  - chief of state: President Shimon PERES (since 15 July 2007)
  - head of government: Prime Minister Ehud OLMERT (since May 2006)
  - cabinet: selected by prime minister and approved by the Knesset

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Legislative Branch: unicameral Knesset (120 seats; members elected by popular vote to serve four-year terms)

Judicial Branch: Supreme Court (justices appointed by Judicial Selection Committee - made up of all three branches of the government)⁶

What kind of society are we dealing with? According to which ethnic cleavages and power relationships is the society structured?

Israel can be classified as a “deeply divided society” (Sisk 1996: 3) with a dominant majority dominating an ethnic minority. (Rabushka/Shepsle 1972) The most severe cleavage runs along the line of division between the Palestinian/Arab minority and the Jewish majority.

In what terms is the contractual relationship between the state and the individuals residing within its territory framed? What is the underlying idea around which political authority is structured and organized?

Singularism as Israel’s Constitutional Principle

Singularism refers to the “[i]dea that the state community is constituted by a single and specific collective identity, and that the state is the embodiment of that identity” (Butenschøn 2000: 17).

Israel as Ethnocracy

Ethnocracy is understood in terms of the allocation of “citizenship according to specific ethnic criteria” (Butenschøn 2000: 20). Inclusion into the state, and the privileges associated with it, is thus determined by affiliation to the Jewish people. Israel accommodates a “system of hierarchical citizenship” (Butenschøn 2000: 19); it regulates the access to rights, mediated through citizenship, according to ethnic lines. It “constitutionally […] excludes from its identity all citizens who are non-Jews. At the same time it includes all non-citizens who are Jewish” (Rouhana/Ghanem 1998: 323). The Israeli state is in this context perceived as the core nation to its Jewish population, excluding the non-Jewish population of Palestine on the basis of ethnoculturally defined and applied patterns of membership. Thus “the state is not neutral in the way it relates to group identities and intergroup conflicts in the population, but is more or less partisan in its promotion of the status and interests of the titular community.” (Butenschøn 2000: 18)

The political framework and its practical implications in dealing with ethnic diversity seem to provoke severely negative consequences for both major ethnic groups involved. The relationship between the Israeli majority and the Palestinian minority is thus characterized by resurging conflicts on various levels. A change in this pattern of interaction would probably involve broadening the potential access to citizenship and the entitlement to rights associated with it.

5. Topics for the discussion

Issues of particular interest:

- Political Participation - Palestinian Arabs rights to run for elections to the Israeli parliament, the Knesset, are also limited by their acceptance of the notion of the Jewish state.
- Laws of citizenship – Jews are granted a particular status.

⁶ See: https://www.cia.gov/library/publications/the-world-factbook/geos/is.html#Govt
Whether minorities should be defined by national minorities, or mainly as religious minorities.

The interplay between equality in Israel and the links to what is going on in Gaza and the West bank. The minority is often viewed as a “fifth column” in Israel.

Israel - Israel was created as a Jewish state. What are the implications of this for the 1.6 million Arab minorities, most of which are Muslim?

Occupied Territories – In some ways there are two main issues here.

- The first being, the question of how a final solution should look. Will a Palestinian state be created? If so, what will happen to the Jewish residents of the West Bank? Could something short of a sovereign state be created for the Palestinian people?
- The second issue concerns the administrative structure of the Occupied Territories while a final solution is still being worked towards. Hamas won parliamentary elections in the Gaza Strip and currently holds de facto control of the area, but is denied international recognition in many ways. How should this be dealt with? Further, administration of the West Bank is currently shared by the Palestinian Authority and Israel, because of the mixed population. Is the current arrangement just? How does it fit in with notions of minority rights we have studied in class?

- Should Palestine and Israel exist as separate nations?
- As one nation should it be unitary or federal?
- As a federal nation, should it be symmetrical or asymmetrical?
- What form of autonomy should be given to the Palestine – Territorial & Political or Cultural?
- What form of autonomy should be exercised in the West Bank & Gaza?
- Who should have the authority in the West Bank & Gaza, Arabs or Jews?
- Is there more to the conflict other than just Jews – Arabs?

6. Resources

SISK, Timothy D. (1996): Power Sharing and International Mediation in Ethnic Conflicts (United States Institute if Peace)


http://www.mideastweb.org/timeline


https://www.cia.gov/library/publications/the-world-factbook/geos/is.html#Govt