**Hierarchical Inclusion: the Untold History of Israel’s Affirmative Action for Arab Citizens (1948-1968)**

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Abstract:

*In recent years, a wave of nationalism has surged in Israel, bringing policy and legislation that have marginalized its Arab minority’s political rights and symbolic status. At the same time, the government has adopted an increasing number of large-scale affirmative action initiatives for the Arab population. This anomaly raises questions about the role of affirmative action and the ways in which it operates to battle and sustain inequality. Drawing on novel archival research, this Article uncovers that these practices have deep historical roots, which can inform our understanding of affirmative action and how it operates today in Israel and elsewhere.* *It shows that numerous practices which were not titled affirmative action then but are considered as such today—including minimum quotas, earmarked job openings, designated vocational trainings, and others—were employed in Israel during its founding decades (1948-1968). It reveals that these measures were motivated by conflicting interests and ideologies: instrumental concerns about security and economic wellbeing of the young Jewish state on the one hand, and egalitarian ideals and aspirations on the other. The Article then shows how these measures promoted the integration of the Arab population into predominantly Jewish institutions and businesses, as well as civil service jobs. However, these measures were systematically limited due to the unequal outcomes of the segregated education systems, and while masses of Arab workers were integrated to jobs at the bottom of the socioeconomic ladder, only a small number included at the top. This Article terms that phenomenon “hierarchical inclusion”— a type of integration in which the majority allows the minority into its institutions but in only a secondary status.*

*Tracing the use of mechanisms now identified as affirmative action back to a time of subjected population management and outside its familiar historical context of struggles for equal citizenship, shows that the identification of affirmative action with equality is contingent on the policymakers driving it in at least two important ways. First, with respect to its goal, affirmative action measures can be motivated by varied, often contradictory, ideologies and interests, some of which align with equality and some are indifferent or even in opposition to it. Second, this Article argues that the egalitarian potential of affirmative action is limited by its common use as an isolated intervention in the spheres of employment and higher education rather than an intervention across spheres, including education. By understanding the ways in which affirmative action fails when it is only used in isolation, this Article allows us to better evaluate the costs of educational segregation–a state of affairs considered not only a given, but also desirable, in contemporary Israel.*

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# Introduction

In recent years, commentators argue, a new, bipolar, era has begun in Israel’s approach toward its Arab citizens (hereinafter: Arabs, the Arab population or the Arab minority[[2]](#footnote-3)).[[3]](#footnote-4) On the one hand, public animosity toward the Arab minority in Israel has surged, bringing a wave of nationalist policy and legislation. This has culminated in the 2018 enactment of the controversial Basic Law: Israel as the Nation-State of the Jewish People, which specifies the nature Israel as the nation state of the Jews people.[[4]](#footnote-5) On the other hand, the very same right-wing government has approved an unprecedented five-year (2016-2020) plan to enhance the economic integration of Israel’s Arab citizens, and adopted a set of large-scale employment affirmative action measures to promote the inclusion of the Arab population in the national economy. These include setting quotas, timetables and numerical goals for promoting the representation of Arabs in the civil service, earmarking an increasing number new positions for the Arab population, establishing special training programs, and incentivizing business to train and employ Arab workers.[[5]](#footnote-6) The growing use of employment affirmative action practices during a time of increased polarization and explicit marginalization raises a puzzling set of questions about the role of affirmative action—what is it meant to achieve? And what is its impact on group inequality?

The answers to these questions are deeply contested.[[6]](#footnote-7) Drawing on novel archival research, this Article finds that many of the very same mechanisms that are being deployed today, and which are currently recognized as employment affirmative action, have deep roots in Israel’s history that could inform our understanding of affirmative action and how it operates today in Israel and elsewhere. It uncovers that in its founding decades, between 1948 and 1968, Israeli officials adopted minimum quotas for employing unskilled Arab workers in manual labor jobs, quotas for employing educated Arabs in the civil service, requirements and incentives for hiring of Arabs in private businesses, earmarked jobs, job openings advertised in Arabic, and vocational training courses for the Arab population, alongside the oppressive military rule imposed on that same population. Tracing the use of these mechanisms back to a time of subjected population management—a setting outside of affirmative action’s familiar context of struggles for equal citizenship[[7]](#footnote-8)—unsettles common assumptions and expectations about its role. First, it shows how the ideologies and interests motivating affirmative action do not necessarily align with equality, and may be indifferent or even in opposition to it. Second, it suggests that employment-only affirmative action, without accompanying efforts to promote grade-school educational integration, are likely to promote only hierarchical forms of inclusion.

More concretely, this Article analyzes archival governmental materials, many of which are presented here for the first time. These include protocols of cabinet meetings and committee discussions, letters, reports, policy memoranda and speeches of state officials, as well as legislative discussions and journalistic reports.[[8]](#footnote-9) These materials reveal that Israeli policymakers adopted a set of practices that we commonly recognize today as employment affirmative action. At first, these practices mainly sought to decrease Arab unemployment but, starting in 1957, measures were also employed to integrate Arab workers into the civil service and other predominantly Jewish institutions and business. Until now, legal scholars have neglected this important piece of history, instead dating the beginning of Israel’s affirmative action efforts to the 1990s,[[9]](#footnote-10) when appropriate representation requirements were formally adopted by the legislature and later affirmed and expanded by the Supreme Court.[[10]](#footnote-11) Historians have studied the state’s approach towards the Arab minority in its first decades, but have overlooked the early positive measures described here for the first time.[[11]](#footnote-12) The few measures which have received scholarly attention have been discounted as insignificant or unrepresentative of “real” state policy.[[12]](#footnote-13) This Article shows that although the various employment affirmative action measures adopted during this period were not conceived of as a coherent policy initiative, they nevertheless formed a significant element of the state’s approach toward the Arab population. It provides a three-pronged account: of the affirmative action *mechanisms* employed during the first decades of Israel’s statehood, the *motivations* for adopting them, and their *effects*. By making this analytic shift, this Article not only supplements the historical knowledge about this period in Israel’s history but, equally important, it offers a better understanding of affirmative action and challenges our understandings about the kinds of changes it can promote.

First, this Article describes the different *mechanisms* Israeli officials used to promote the inclusion of the Arab population into the national workplace during the first two decades of Israel’s statehood. While Israel never had a formal Jim Crow-like regime, the workforce and educational systems of Jews and Arabs were hyper-segregated after the 1948 war.[[13]](#footnote-14) This separatist structure was mostly kept in place during the first decade of statehood, in which the military regime imposed limitations on movement of Arabs within Israel and made employment for them outside the villages in which they lived very difficult.. Measures adopted in those early years sought to fight acute unemployment in the Arab sector, mostly by designating unskilled jobs and allocating minimum numbers of work days in public works projects (relief work) to the Arab population. However, with the weakening of military’s restrictions in 1957, these measures were supplemented by efforts to integrate (*le-shalev*)[[14]](#footnote-15) Arabs into the national workforce across the civil service, private companies, and public entities. These policies included minimum hiring quotas, earmarked jobs, vocational trainings, some preferential treatment in hiring, some stipends for Arab university students, as well as requirements and incentives for hiring of Arabs in private businesses and governmental offices. The Article also uncovers how, instead of adopting a 1962 plan to integrate all Arab and Jewish high schools and all schools in mixed cities, Israel chose to address Arab educational levels and attendance with non-integrative multi-year plans of budgetary allocations.[[15]](#footnote-16)

Second, this Article uncovers the varied *motivations* of different historical actors in adopting affirmative action measures.[[16]](#footnote-17) Delving deeper into the discourse surrounding these measures, this Article shows that actors in this era had disparate, sometimes conflicting motivations for adopting affirmative action measures. The two most dominant motivations were instrumental concerns about the security and social order of the young Jewish state as well as its economic prosperity. These concerns were augmented by secondary instrumental concerns about the nascent state’s international legitimacy, as well as by political partisan competition over the “Arab vote.” Finally, egalitarian ideologies and moral commitments also motivated politicians and officials to employ affirmative action measures. Sometimes, they were even overtly aimed at “correcting” aiming to “close gaps” or at “positively discriminating” the Arab population. The article demonstrates that this multitude of interests, commitments and approaches coexisted. And at the same time that military regime and land expropriation policies were enacted to consolidate Jewish dominance and control over Israel’s territory and state apparatus, affirmative action practices were also employed, sometimes to further and sometimes to counter those very same goals of Jewish supremacy. Affirmative action measures were thus a complex set of instruments aimed at promoting different social goals, both promoting and opposing equality.

Third, the Article tries to evaluate the effects of these early employment affirmative action measures, finding that they took part in a transformation that occurred during those decades: from complete segregation of the Arab minority and strict military oppression limiting their movement and work during Israel’s first decade to a more covert, entrenched economic subordination. With over fifty percent of Arab workers joining the “Jewish Sector” in those years,[[17]](#footnote-18) employment affirmative action measures did improve their material conditions and their greater economic integration. However, this integration was limited to what this Article terms “hierarchical inclusion,” in which Arabs were integrated into the workforce but kept in secondary roles. More specifically, Arabs increasingly worked for and with Jews, rather than in their villages (mostly in agriculture), but mostly held low-paying, low-status unskilled jobs, while only a small number of qualified Arabs were integrated into more lucrative and better paying positions and into the higher education system. This Article finds that disparities in education output constantly limited the efforts for employment integration, and argues that without addressing the educational segregation, the gaps in education levels remained too large to overcome at the stage of employment, and thus could not be mitigated solely by employment affirmative action measures.

In contemporary discussions, proponents of affirmative action deeply identify it with a democratic commitment to equal citizenship, citing its egalitarian potential as one of the “few proactive responses to racial inequity.”[[18]](#footnote-19) Critics of affirmative action, on the other hand, have argued that affirmative action fails to address the underlying structures of subordination and thus legitimates and affirms it.[[19]](#footnote-20) This Article suggests that both views are shortsighted, based on a fixed and rather abstract conception of affirmative action. Historicizing the use of practices now identified as affirmative action practices, back to a time of military regime and outside of its familiar historical context of struggles for equal citizenship unsettles some of the common assumptions on both sides of the affirmative action debate. It shows that that the identification of affirmative action with equality is contingent on the policymakers driving it in at least two important ways. First, with respect to motivations, affirmative action measures can be motivated by varied, often contradictory, ideologies and interests, ranging from egalitarian to nationalist. Second, as to its egalitarian potential, this Article suggests that affirmative action had been limited, not inherently so, but rather by its focus and isolation to the context of employment and higher education, notwithstanding educational segregation. To increase its egalitarian potential and get beyond heretical forms of inclusion, I suggest that affirmative action should be used as an intervention across spheres, including the educational system. This Article thus allows for a better evaluation of the costs of educational segregation—which is often considered as both the given state of affairs and the desirable one—and its limiting implications on affirmative action efforts in employment and higher education.

Educational segregation between Arabs and Jews in Israel has been part of a deep social and residential segregation. The literature has emphasized residential segregation as a central source of the inequality and segregation in education in Israel, and uncovered the role of law, and especially local government law, in producing and reproducing this segregation.[[20]](#footnote-21) However, educational segregation between Arabs and Jews is dominantly regarded by policymakers and scholars as a historical given. Separate schools for the Arab population, in which the primary language is Arabic, are perceived as a manifestation of group preferences and an important expression of cultural autonomy, and therefore segregation is largely uncontested.[[21]](#footnote-22) Instead, a strong aspiration for ‘separate but equal’ has dominated popular and scholarly discussions about Arab education in Israel.[[22]](#footnote-23) This article challenges this dominant ethos by uncovering the ways in which educational segregation limits efforts to promote employment integration of the Arab population.[[23]](#footnote-24) It then turns to examine the current influx of employment affirmative action measures adopted by the Israeli government. These measures are more robust and systematic than past policies. However, while efforts to enhance separate Arab education have decreased disparities between Arabs and Jews over the past twenty years, especially in attainment levels, this article argues that the remaining gaps in educational achievements and Hebrew proficiency are too significant to be mitigated by employment affirmative action alone.[[24]](#footnote-25) The article then asks whether the even more recent affirmative action measures to promote higher education integration in Israel have a better chance in promoting equality.

Part I of the Article provides a brief historical background and surveys the internal historiographical debate on Israel’s relationship with its Arab minority during its first two decades of statehood, and locates this Article’s historical contribution in relation to it. Part II brings to light the heretofore untold history of affirmative action mechanisms Israeli officials adopted for the Arab minority during the first two decades of Israel’s statehood. This Part is divided into three sections. The first describes the practices themselves. The second reveals the motivations driving these measures. The third explores the outcomes of these measures*.* Part III of the Article asks what can be learned from this history. Its first section builds on the historical account to draw theoretical implications. In the second section, it employs these insights to review the Israel’s newest affirmative action policies. The Article then presents some concluding remarks.

# Background and the Internal Historiographical Debate(s)

The first two decades of Israel’s statehood were years of state-sanctioned oppression of the Arab minority. Following the 1948 war and the establishment of the state of Israel, there were approximately 160,000 Arabs in Israel, comprising approximately fifteen percent of the population. They were defeated and lacking national leadership. Some of them had been uprooted from their home villages, becoming “internal refugees.”[[25]](#footnote-26) The population was mainly rural and employed in agriculture, and internally divided into three communities. The largest was comprised of Muslims, and the two smaller ones of Christian-Arabs and Druze.[[26]](#footnote-27) They were granted suffrage rights in Israel and gradually formal citizenship as well, and became referred to as “Israeli Arabs”. However, during this very same period, the majority of Arab villages, towns and cities were placed under a military regime that was abolished only in 1966.[[27]](#footnote-28) It was overtly put in place not only to defend, but to exert “control over the Arab population and its movements in order to prevent organization. . . .”[[28]](#footnote-29) The military regime restricted the movements of the Arab population and confined them to their segregated areas of domicile.[[29]](#footnote-30) It severely limited their ability to work outside their villages by instating a system of permits. Starting in 1957, while the military regime remained in place, these limitations of movement and employment were gradually abolished.[[30]](#footnote-31) Those decades also marked a period of massive land expropriation that and left much of the Arab population without work.[[31]](#footnote-32) Arab refugees were prevented from returning to the homes they had left or had been forced to leave in 1948.[[32]](#footnote-33) Also during this period, the Arab minority was discriminated against in the allocation of funds, especially during the first decade, when the discrimination was still very overt and extensive.[[33]](#footnote-34)

The literature on the state’s approach to the Arab population during the founding decades has focused on two main sets of issues. The first has a local focus, describing the state’s dual approach toward the Arab minority, with liberal and democratic commitments on the one hand and the state’s Jewish nationalist or colonialist nature and its security concerns on the other.[[34]](#footnote-35) The resulting controversy in this context revolves around the balance between these opposing poles. Much of the literature about this issue is dedicated to critical exposure of past wrongs,[[35]](#footnote-36) and often depicts a portrait of formal citizenship and voting rights that concealed a colonial regime of Jewish domination and control.[[36]](#footnote-37)

The second set of commonly studied issues focuses on population management in deeply divided societies.[[37]](#footnote-38) Within this framework, Israel is both a case study and the subject of interest. The main question is how different social, political and legal mechanisms were used to sustain domination and control. As Shira Robinson puts it, “how to bind indigenous Arab voters to the state while denying them access to its resources.”[[38]](#footnote-39) Robinson describes the mechanisms meant to keep the Arab population loyal to the state, but not too loyal, “as citizens of a formally liberal state and subjects of a colonial regime.”[[39]](#footnote-40) Trying to answer the same question, Hillel Cohen revealed the system of collaborators established by Israel in every Arab community after 1948, which was crucial to dissolving any form of resistance and to maintaining the social order.[[40]](#footnote-41) Yair Bäuml, who has written extensively on the establishment’s approach toward the Arab minority in the first decades, came to the conclusion that the state’s policies were meant to “knowingly and deliberately, serve the subordination of the Arab economy to the Jewish one and minimize its political and social independence.”[[41]](#footnote-42) More directly, Ian Lustick has looked for explanations of the stability of the control framework in deeply divided societies, and suggested that in the Israeli case, three socio-political mechanisms played a role in keeping the Arab minority docile: the segmentation of the Arab population and its separation from the Jewish one; cultivation of dependency; and cooptation of the elite.[[42]](#footnote-43) Ilan Saban drew on Lustick’s control framework to analyze the role of the legal system in sustaining stability, finding that “the legal system in this period acted as the efficient servant of this [control] framework.”[[43]](#footnote-44)

By making an analytic shift and distinguishing between the chosen mechanisms, the motivations for adopting them and their outcomes, rather than collapsing the three,[[44]](#footnote-45) this Article supplements this scholarship in three ways. First, most of the mechanisms this Article describes have never been discussed in the literature. Fixated on the persistence of the control framework over the Arab minority, scholars have given only scant attention to a few of the policies herein referred to as affirmative action measures, dismissing them as being “too little, too late” or unrepresentative of “real” Israeli policy.[[45]](#footnote-46) In contrast, this Article shows how, despite the fact that these measures were not adopted in any consistent way, they should be understood as a significant part of the state’s approach toward the Arab minority. Second, providing a detailed account of the diverse and contradictory interests and ideologies that lead officials to pursue affirmative action, this Article challenges the first conventional dual approach to Israel’s treatment of the Arab minority mentioned above. It suggests that “Israel’s” approach cannot be downsized to an abstract duality. Instead, it demonstrates that a multitude of interests, commitments and approaches coexisted, and that affirmative action practices were employed to further those conflicting goals. Third, this Article does not directly confront the question of the stability of the control over the Arab minority in those years. However, it shows how Jewish dominance and control over Arabs changed during this time from a regime of complete segregation and strict military oppression in the first decade to a more integrated economic subordination in the second decade. It suggests that affirmative action took part in advancing this change toward hierarchical inclusion.

# The Untold History of Affirmative Action for Arab Citizens of Israel (1948–1968)

## **Mechanisms**

As explained in more detail in Section II.C, under the British Mandate for Palestine, there was some limited economic cooperation between Jews and Arabs. However, following the 1948 war, these practices of economic cooperation mostly stopped, and Arabs and Jews were largely segregated residentially, educationally, and economically.[[46]](#footnote-47) This section details how Israel used newly uncovered mechanisms, commonly recognized today as affirmative action practices, to integrate Arabs into the state economy, during its first two decades. The Hebrew word that historical sources commonly use to describe these integrative efforts is *shiluv.* This word literally means integration, but in practice, refers to two distinct types of economic intervention. The first and more elusive practice aimed at integrating Arab workers, most of whom were either unemployed or working in what was then a confined Arab economy (mostly agricultural), into the state workforce, which was completely Jewish and far more diversified and modernized. These were efforts to fight unemployment by incorporating Arab workers as blue-collar laborers in the national, mostly public, workforce.[[47]](#footnote-48) These early measures date to the inception of the state, and were mostly implemented during the first decade. The second, and more important for the purposes of this Article, type of employment affirmative action began after the Sinai war, with the economic prosperity of the late 1950s and early 1960s and the weakening of the military regime. These measures, such as quotas, earmarked job openings, trainings and preferential treatment, sought to integrate the Arab population, and mostly its more educated segments, more directly into the public sector and other predominantly Jewish institutions and businesses. A few, very limited measures to integrate Arab high school graduates into public universities. This description is supplemented by a survey of the “road not taken.” It looks at how instead of promoting educational integration, the state pursued efforts to improve but not integrate the Arab-speaking schools.

### *The First Decade (From Inception to the Sinai War, 1948–1956): Fighting Unemployment*

David Ben-Gurion, Israel’s first prime minister (1948–1953; 1955–1963), established the principle of *mamlakhtiyut*, a term that referred to, among other things, a form of civic affinity, and an obligation to ensure equality before the law for all citizens.[[48]](#footnote-49) And indeed, in its proclamation of independence, Israel formally committed to its Arab inhabitants to “preserve peace and participate in the upbuilding of the State on the basis of full and equal citizenship and due representation in all its provisional and permanent institutions.”[[49]](#footnote-50) However, at the same time, Ben-Gurion was known for his security-oriented approach toward the Arab minority. He thought of the Arabs remaining in Israel after the 1948 war mainly as a security threat, to be dealt with “not according to the destruction that they did not cause [in 1948], but according to what they might have done if given the chance.”[[50]](#footnote-51) Following from this approach, during the early days of the state, Ben-Gurion and other officials expressed the “need” to promote a voluntary relocation of the Arab minority from Israel.[[51]](#footnote-52) It was Ben-Gurion who directed the establishment of the military regime and opposed its abolition during the years of his administration. He was also the architect of Israel’s land expropriation policies. Considering the strong security orientation Ben-Gurion and many in his government expressed in those years, it is surprising to learn that these same officials adopted affirmative action measures. The state’s approach to the Arab minority in the first decade was inconsistent. Nonetheless, it undertook sporadic measures, mostly to battle unemployment, which served as the antecedents of the more familiar affirmative action measures employed in the second decade.

The devastating implications of the 1948 war for the Arab population were mostly repressed and ignored by the Israeli establishment,[[52]](#footnote-53) yet an official government report from 1952 acknowledged that “[t]he Arabs who remained in the country had suffered a profound psychological upheaval as well as a fundamental dislocation of their social and economic life.”[[53]](#footnote-54) It was under such conditions, this report declared, that “the State of Israel had to find ways and means of integrating the Arab population.”[[54]](#footnote-55) The report explained that “[f]rom the very beginning, the Government made special efforts to promote Arab farming and reconstruct the economy of the fellahin [Arab farmers], who had suffered acutely from the ravages of war.”[[55]](#footnote-56) It was also noted that “[s]pecial efforts have been made to encourage the formation of cooperative associations…” and that “[t]he Jewish Federation of Labor has spent considerable sums on fostering the growth of an Arab cooperative movement…”[[56]](#footnote-57) The report also mentioned that “[e]very effort was made by the Israeli authorities in order to find employment for former government clerks, and teachers and religious officials were mostly reinstated.”[[57]](#footnote-58) This report appears to apply a kind of remedial logic to the efforts to reconstruct the economy of the Arab sector and to integrate the Arab population into the Israeli workforce.

This report was written in English, probably as part of the state’s efforts to create a positive impression internationally. Therefore, it seems safe to assume that it likely overstated the efforts the government took to alleviate inequality and integrate the Arab population. The rest of this Article relies not on this English report, likely intended for an international audience, but on internal reports and materials written in Hebrew, such as protocols of committee discussions and policy proposals and plans. It shows how, during the first decade, the state began efforts to fight unemployment in the Arab sector, which it supplemented in the second decade with measures to also promote their inclusion. These were supplemented by efforts to promote economic rehabilitation and welfare enhancement. The earliest such identifiable actions were those taken by the Ministry of Minority Affairs, which was established with the formation of the Provisional Government on May 14, 1948. Bechor-Shalom Sheetrit, who was born in Israel to a Moroccan-Jewish family and thus spoke Arabic, was appointed as the first and only Minister of Minority Affairs. Sheetrit conceived of his ministry’s role as that of “protecting the rights” of Israel’s non-Jewish population and convincing the Jewish population to adopt a “fair and equal” approach to the Arab population.[[58]](#footnote-59) He stated that the office’s primary goals were to “promise the Arabs who live among us equal rights, allow them a dignified existence and promote their cultural and economic rehabilitation.”[[59]](#footnote-60) The ministry was charged with the authority to “investigate the social and economic problems” of the Arab population and to “initiate structural actions in these areas.”[[60]](#footnote-61) The ministry operated for only fourteen months before it was dissolved. Yet, during that short period, it promoted policies to improve the wellbeing of the Arab minority and to integrate it into the emerging national workforce.[[61]](#footnote-62)

The ministry’s main efforts were directed at the economic rehabilitation of the Arab sector and the reconstruction of government services that would allow the Arab population to reestablish a “normal life” in the aftermath of the 1948 war.[[62]](#footnote-63) The ministry acted to secure loans for Arab farmers, sent agriculture instructors to Arab villages for training purposes,[[63]](#footnote-64) and worked to integrate Arab workers “into the productive work cycle.”[[64]](#footnote-65) During its brief span of activity, the ministry attempted to “employ minorities in agriculture and other manual labor, and to provide social and medical services at the majority of Arab villages.”[[65]](#footnote-66) In cooperation with other government offices, the ministry made efforts to fight unemployment in the Arab sector. Examples include the establishment of voluntary “employment-camps” where Arabs worked and sometimes lived, as well as employment centers in Arab villages to direct local Arab job seekers to available jobs, mostly in the agricultural sector.[[66]](#footnote-67) News reports from that time described as successful the ministry’s efforts to integrate Arabs into the productive work cycle, especially through employment in “public works.”[[67]](#footnote-68) In another instance, the Ministry of Minority Affairs became involved in efforts to convince the Minister of Interior to increase from two to four the number of Arab representatives in the municipality of Haifa, a large mixed city.[[68]](#footnote-69)

In June 1949, the Ministry of Minority Affairs was dissolved,[[69]](#footnote-70) and an Advisor for Arab Affairs to the Prime Minister (hereinafter: the Advisor) was appointed to advise on policy matters relating to the Arab population and coordinate the work of various bodies involved with the Arab minority in each office. Ben-Gurion provided the official reason for closing the ministry: “[t]he Ministry of Minority Affairs is to be cancelled because there is no need for it. The Arabs will not be a minority; rather they will be citizens.”[[70]](#footnote-71) Some scholars argue that the dissolution of the office was evidence of the domination of the security approach to the Arab minority over Israel’s liberal commitments.[[71]](#footnote-72) However, the following discussion will demonstrate that nothing was resolved or decided in 1949, and there was not a consolidation of any one approach. Instead, a multitude of interests, commitments and approaches coexisted, and while the military regime and land expropriation policies were enacted to promote certain goals, affirmative action measures were also employed, sometimes even to further those very same goals. During the first decades of the state, until 1957, the military regime protected not only the security of the state, but also the ideal of “Hebrew labor” by instating a system of permits that restricted the movement of the Arab population and their ability to work outside their villages in the Jewish sector.[[72]](#footnote-73) Nonetheless, at the same time, there were sporadic measures to battle unemployment in the Arab population. These measures promoted the employment of Arabs in the productive workforce, but not their integration into predominantly Jewish institutions and businesses.

#### Fighting Unemployment by Directly Targeting Arab Workers

After the 1948 war and as a result of massive land expropriation, numerous Arabs who had previously worked their crops were unable to do so, and many were left unemployed.[[73]](#footnote-74) As an influx of Jewish immigrants from Europe and Africa rushed into the young state, unemployment became a national problem.[[74]](#footnote-75) As Arie Krampf explained, the economic paradigm that prevailed in Israel in the first decade was one of “rapid economic development” and “full employment.”[[75]](#footnote-76) In those years, the Israeli government was highly active in promoting economic policy initiatives to reduce unemployment.[[76]](#footnote-77) Such measures included efforts to organize employment by opening local employment centers for assigning jobs. At the same time, the government also established a workfare-like system that initiated public works projects (sometimes called relief work) of mostly manual and unskilled jobs, such as those in construction and agriculture. Public works jobs were meant to battle unemployment by securing very minimal earnings and living conditions for the workers. The state mostly employed Jewish newcomers from the Middle East and North Africa (*Mizrahim*) in such projects, but also hired members of the Arab population.[[77]](#footnote-78) While the state in those early years limited Arabs’ movement and ability to work outside their villages, for both security and economic reasons,[[78]](#footnote-79) they were also the beneficiaries of affirmative action policies directly targeted toward them.

In 1949, the Minister of Labor concluded that because unemployment in the Arab sector in Nazareth was much worse than in the Jewish sector, “an active and vigorous intervention is required in order to assure a minimal equalization of the level of employment.” He added that, “given the promise of equal citizenship, the state must intervene to repair this distortion.”[[79]](#footnote-80) In order to “fight unemployment in the Arab sector and promote a fair division of labor,”[[80]](#footnote-81) government officials employed different measures in Nazareth and elsewhere. The Minister of Labor and other officials earmarked public works jobs for the Arab population, making minimum quotas of Arab workers to be employed in different projects and a minimum number of working days to which they were entitled.[[81]](#footnote-82) These jobs were mostly manual labor, low-paying and part-time, and were meant to provide only minimal earnings.[[82]](#footnote-83) In a 1951 Knesset discussion, the Minster of Labor responded to claims about unequal distribution of employment, and argued that “unemployment in the Arab sector is lower than in the Jewish one,” because the state “provided the Arabs thousands of work days” in different public works projects.[[83]](#footnote-84)

A 1951 government report by the Ministry of Labor summarized the various efforts it had made for the Arab minority: “[T]he office’s policy was based on eradicating unemployment, promoting fair share of the labor and setting appropriate pay for the Arab worker.”[[84]](#footnote-85) The efforts included “placing Arabs into governmental jobs . . . allocating special budgets to create jobs, and designating special jobs, such as olive picking and other agricultural jobs to the Arab sector, as well as promoting their integration into governmental positions in forestry, trains and transportation.” The ministry also “ordered some Jewish municipalities to earmark budgets to employ Arab workers,” and provided more government funds for this purpose.[[85]](#footnote-86) It was also reported that unemployment among Arabs who had been working as clerks during the British Mandate in the city of Nazareth had been eradicated, as about 100 Arabs who had worked as British clerks were re-employed in different government offices in the city.[[86]](#footnote-87) Another initiative was establishing professional training courses for former clerks seeking reinstatement and vocational training for Arab women seeking employment in the textile industry.[[87]](#footnote-88) The report concluded that the Arab working sector had been revolutionized, and that huge achievements had been made in eradicating unemployment, especially given the thousands of Jewish newcomers also seeking employment.[[88]](#footnote-89)

#### Early Commitments to Employment Integration and the Logic of “Positive Discrimination”

Before 1957, efforts to integrate Arab workers and high school graduates into the civil service and Jewish businesses—as opposed the effort to elevate baseline employment levels described above—were very minimal. The issue of Arabs’ exclusion from the workforce started to receive public attention mostly in the following decade. However, on some occasions, public officials committed themselves and others to promoting the employment of Arabs in different offices. For example, in 1955, the Advisor for Arab Affairs promised to promote the integration of Arab students into government offices.[[89]](#footnote-90) In at least one instance, the government provided funds to employ Arab students at the university.[[90]](#footnote-91) On another occasion, Israeli President Yitzhak Ben Zvi asserted that the government must prevent discrimination against Arabs in civil service appointments. He explained that while “we are not always at fault [in] discriminating because they [the Arabs] are unable to provide appropriate qualified candidates for the jobs,” the government should help end discrimination by teaching them Hebrew and providing appropriate training,.[[91]](#footnote-92) Ben Zvi, who advocated for the economic, as well as the moral, spiritual and cultural integration of the Arab minority, understood that vocational and other kinds of training for the Arab population would encourage inclusion.

 As to education, there is no evidence of any efforts to promote educational integration with affirmative action, or any plans to develop the Arab education system. To the contrary, historians report that there was great budgetary discrimination during the first decade of the state. Yair Bäuml explains that, with the establishment of the state, the conditions of the Arab sector were worse than those of the Jewish sector in almost every aspect of life, including education. These gaps only intensified during the state’s first decade, which was characterized by discrimination against the Arab minority by the Jewish establishment.[[92]](#footnote-93) At the same time, archival sources reveal that there was some form of “positive discrimination” (*aflaia letova*) toward the Arabs by the government. A 1953 report prepared by the Advisor for Arab Affairs described the government’s policy toward the Arabs in the first five years of statehood, stating that, in some fields, “the government is acting in ways which in nature and form are positively discriminating (*maflim letova*) the Arab residents regarding education, health and taxes.”[[93]](#footnote-94) The report did not detail the exact form this positive discrimination took. However, it goes on to explain that the Arab population systematically underpaid its taxes, that Arab local authorities did not participate in funding education as required by law, and that the government nonetheless provided them with welfare services and education.[[94]](#footnote-95) Also in 1953, in a government meeting, the term positive discrimination was used again in a similar context, suggesting that the fact that the Arabs did not pay taxes but enjoyed benefits, such as education and health, meant that “they enjoyed positive discrimination.” [[95]](#footnote-96) In another report, this logic was explained in greater detail:

The local authorities are required to bear a certain part of the education budget . . . . [T]he Arab villages and municipalities at first complied very inadequately with this requirement of the law, and the government of Israel had to spend large sums on Arab elementary education, involving an average expenditure per child which was considerably higher than the corresponding outlay for Jewish schools.[[96]](#footnote-97)

These reports seem to reflect a distribution scheme that worked, even if inadvertently and to a very minimal degree, to compensate for the poverty and lack of resources of the Arab local authorities. This somewhat progressive distribution system, while distinct from the later policy plans that directly addressed the Arab minority in order to enhance their welfare and improve the quality of their education, nonetheless reflects a type of affirmative action logic that was familiar to officials during the first decade.

### *The Second Decade (the Sinai War to the End of the Second Decade, 1957–1968): Employment Integration*

 Following the 1956 Sinai War and other events, both the State of Israel and its Arab population came to realize that the “other side” was not going anywhere.[[97]](#footnote-98) In the wake of this realization, government officials started considering and adopting longer-term policies and more robust action plans for the Arab population. While the military regime was kept in place until 1966, starting in 1957 it gradually became less restrictive, and Arab employment in the Jewish sector became possible.[[98]](#footnote-99) With the robust economic growth starting at the end of the 1950s and the sharp decrease in Jewish unemployment starting in 1957,[[99]](#footnote-100) the state put in place various employment affirmative action measures for the Arab minority. This section explores policies, plans and measures aimed directly at facilitating the inclusion of the Arab minority into the workforce. It then supplements this account by describing the unfollowed proposal to partly integrate the two education systems, and the plans for instead improving the separate Arab education system.

In 1957, Mapai, Israel’s governing party from its establishment until 1977, formed the Committee for Arab Affairs.[[100]](#footnote-101) While this committee did not have any official state mandate, it did play a very dominant role in shaping government policy. It discussed the so-called “problems of the Arab minority,” designed policies to address these problems, and made policy recommendations to the government. The recommendations were adopted and then implemented, albeit often incompletely, by Mapai and the cabinet or by the Prime Minister’s Advisor for Arab Affairs.

 The Committee for Arab Affairs discussed its first large-scale action plan for the Arab minority in 1958. While during the first decade of the state options for both deportation and assimilation of the Arab minority were still discussed,[[101]](#footnote-102) the Committee for Arab Affairs declared that neither was a feasible option, and that the time had come for the government to adopt a liberal approach of partial integration of the Arab minority.[[102]](#footnote-103) The plan aimed to promote “integration of the Arabs in positive circles of production and creation,” and to improve the levels of employment, education, health and infrastructure.[[103]](#footnote-104) Between 1959 and 1968, the Committee for Arab Affairs made additional policy recommendations, which then became Mapai’s action plans. These were often partially implemented by different government bodies. These plans were aimed at “bringing gradual integration of the Arab population in [the] social, cultural and economic life of the state, through optimal and complete equality of rights and obligations of all Israeli citizens (without ignoring, not for a minute, security problems).”[[104]](#footnote-105) These action plans and other smaller-scale policies largely targeted disparities the Arab sector faced in employment, living conditions, and education. Employment measures were integrative, and sought both to promote mass inclusion of Arab laborers into blue-collar unskilled jobs and to integrate educated Arabs into the civil service and other dominantly Jewish institutions. Other efforts included plans for welfare enhancement and improving the quality of education. These efforts are discussed below, with particular attention to the differences between the strategy employed in the workforce and the non-integrative measures adopted in education.

1. Integrative Measures: Workforce, Higher Education, Judiciary

During the state’s second decade, government officials became concerned with unemployment rates in the Arab sector, as well as with the separation of the Arab economy from the national Jewish economy.[[105]](#footnote-106) Addressing these concerns, Mapai’s first action plan in 1958 sought to “bring as many Israeli Arabs as possible into positive circles of development and production” and to develop the “economic cooperation between the Arab and Jewish sectors.”[[106]](#footnote-107) The Advisor for Arab Affairs’ 1959 policy guidelines suggested that Arabs should be integrated into the Israeli economy, and that educated Arabs should be integrated into the public sector, even if it entailed creating new positions.[[107]](#footnote-108) Similarly, the Committee for Problems of Employment and Professional Training of Arab Youth recommended integrating Arab workers into the organized labor workforce.[[108]](#footnote-109)

As in the first decade, employment affirmative action measures were adopted, but instead of merely fighting unemployment, they also sought to integrate the Arab working population to the national economy. These efforts included measures to integrate the general population in mostly blue-collar unskilled jobs—including jobs in Jewish-owned business, mixed cities and the public sector—as opposed to the very scarce, mostly agricultural, jobs in Arab villages. More specific measures to employ educated Arabs to the civil service were also employed. And as Section II.C. shows in detail, by the late 1960s, half of Arab workers held jobs outside their villages and were employed by the state or by Jewish-owned businesses. In addition, some efforts were also taken to integrate Arabs into higher education, and, in one case, the judiciary.

1. *The Integration of Unskilled Laborers into the National Workforce*

A 1967 report of the Knesset Labor Committee noted that “more was being done to treat the problem of unemployment in the Arab sector than in the Jewish one.”[[109]](#footnote-110) Whether this description is accurate or not, the state did undertake efforts targeting the general Arab population, including long-term policy plans and some specific, small-scale efforts. First, the Ministry of Labor continued to set minimum quotas for Arab employment in public works projects, sometimes more than their corresponding proportion of the general population.[[110]](#footnote-111) For example, in 1966 the ministry proposed setting quotas of about 2,000 to 3,000 jobs for Arabs in cities with mixed populations.[[111]](#footnote-112)

A second measure for fighting unemployment in the Arab sector and promoting integration with Jewish-owned business was the establishment of state-funded vocational training courses. These courses trained Arabs in skilled occupations that were in high demand at the time, including specialized sewing, machine operation, carpentry and teaching.[[112]](#footnote-113) While Arab teachers were employed within the segregated Arab education system, other courses were designed to enable Arab workers to participate in the general workforce in mixed and Jewish cities. For example, in a speech given by Prime Minister Eshkol in 1963, he reported that “the efforts made by the government to provide the Arab and Druse youth with professions, in professional schools and courses for vocational trainings provided by the ministry of Employment were fruitful already . . . . Thousands of young Arabs were integrated into processional jobs in industrial factories, starting in large factories, such as refineries, the Dead Sea factories and others, as well as smaller workshops and cooperatives. These workers enjoy fair working conditions, equal to their Jewish peers. The government will broaden the professional trainings of Arabs and Druse.”[[113]](#footnote-114)

A third measure for increasing employment was introduced after the recession of 1965 to 1966, which increased unemployment rates, especially in the construction field.[[114]](#footnote-115) These new measures were aimed at increasing Arab employment by industrializing the areas where they lived. According to a 1967 policy plan, the state was to promote and build state- or Jewish-owned factories in or near Arab population centers. These plants, it was stated, would employ *both* Jews and Arabs.[[115]](#footnote-116) For example, the Kristal soft drink plant committed to employing about 125 workers as part of its scheduled reopening. A carpet factory was recruited to open a branch in Nazareth, committing to employ 100 to 200 Arab workers.[[116]](#footnote-117) Other Arab workers from Nazareth were employed in Haifa, Afula, and other neighboring Jewish or mixed municipalities, mostly in Jewish-owned businesses.[[117]](#footnote-118) In addition, government committees and officials endeavored to convince business owners to employ more Arabs.[[118]](#footnote-119)

Another major step in integrating Arab workers into the national workforce which, unlike the other measures described here, has received some scholarly attention, involved integrating Arabs into the Histadrut.[[119]](#footnote-120) The Histadrut was founded in 1920 as a Jewish-Zionist workers organization and became Israel’s national centralized trade union. It owned a number of enterprises and, for a time, became the largest employer in the country. The clash between the organization’s Zionist aspirations and its socialist agenda created controversies over its approach to Arab workers even before the birth of the state. Yet, as Sarah Ozacky-Lazar reports, it was only during the first two decades of Israel’s statehood that the Histadrut gradually included Arab workers—which it did while still adhering to its Zionist agenda.[[120]](#footnote-121) In 1953, the organization decided to allow Arabs to become members of the professional unions affiliated with it. The leaders of the Histadrut at the time understood this to be “a step in the direction of full and fast integration of the general Arab sector [*yishuv*] into Israel’s general population, on the basis of complete equality of rights and duties.”[[121]](#footnote-122) However, only in 1959 did the Histadrut’s assembly decide to admit Arab workers as full and equal members of the organization.[[122]](#footnote-123) While the integration of Arab workers into the Histadrut was far from smooth, it is noteworthy that proactive efforts were made to promote this process.[[123]](#footnote-124) Further, as the owner and operator of a number of enterprises, the Histadrut became a central force in promoting the integration of the Arab population into the state’s workforce, endeavoring to assure them equal pay and social benefits.[[124]](#footnote-125) For example, the organization made concrete efforts to integrate Arab workers into its economic enterprises such as Tnuva, Israel’s largest dairy company, and Bank Hapoalim, Israel’s largest bank, and to increase Arab representation in the Histadrut’s elected bodies.[[125]](#footnote-126) Finally, in 1966, the Histadrut council voted to eliminate the word “Hebrew” from its title in order to symbolically include all workers in Israel.[[126]](#footnote-127)

1. *Efforts for Integrating Educated Arabs and the Problem of the Arab Intelligentsia*

A1957 survey conducted by the Civil Service Commission on non-Jewish civil service employees found that while non-Jews accounted for 10.7 percent of the population, they held only 3.5 percent of civil service positions. Of these, most were low-level positions.However, the Commission also reported that “special efforts” were being made by different offices to appoint more Arabs.[[127]](#footnote-128) This involved direct affirmative action measures to integrate the educated, who were mostly high school graduates, into the public sector. Minimum quotas were set and published. For example, in 1958, Mapai’s Committee for Arab Affairs decided that the government, the Histadrut and other public institutions should “employ, in the very near future, 100 educated Arabs.” The committee further suggested setting “permanent quotas for each office and [ensuring that] this will be done in three to four months.”[[128]](#footnote-129) A news report later that year reported that the government had been able to arrange for seventy Arab high school and college graduates to be employed in the administration and other free professions.[[129]](#footnote-130) Similarly, in 1962, it was reported that the Prime Minster’s Office had required different governmental offices, along with public and private institutions, to earmark a few positions for educated Arabs.[[130]](#footnote-131)

Further, in 1961, the Ministry of Finance published a job opening earmarked for the Arab population. Written in Arabic, it called on non-Jewish high school graduates to apply for certain jobs at the ministry. As a result, the ministry hired twenty-five educated Arabs. The Ministry of Education published a similar request.[[131]](#footnote-132) Later that year, the Ministry of Finance published another advertisement for thirty positions earmarked for educated Arabs throughout the country, which a month later it reported having filled.[[132]](#footnote-133) Suggestions were also made to make proactive efforts to employ educated Arabs and to allocate a “minimum percentage of the public sector employment” to Arabs.[[133]](#footnote-134) Another type of measure was using preferential hiring practices for Arab candidates and workers. For example, in a letter from 1967, the Office of the Advisor for Arab Affairs in Haifa suggested that the city’s governmental offices should allow educated Arabs who did not pass the mandatory exam to retake the exam a year or more into the job. The office explained that major efforts were being made to train and integrate these workers and that, despite their failures in the exams, they were doing well on the job.[[134]](#footnote-135)

Equally important was the pressure government officials and committees placed on various public and private sector entities to employ a certain number of educated Arabs in specific offices or industries. For example, the 1962 five-year plan by the Arab Affairs Committee demanded that:

The Civil Service Commission will ensure the employment of Arab engineers, doctors, lawyers, clerks and laborers in all fields of work: industry, commerce, government, municipal, private and join services, with no discrimination and with special and directed attention to solving the urgent problem of the employment for high school and higher-education [Arab] graduates as well as free professions.[[135]](#footnote-136)

The following year, a newspaper article reported that:

The Advisor for Arab Affairs reached out to tens of [Jewish-owned] industrial factories, commercial companies, public and private institutions, requesting [that] they demand educated Arabs [to fill] different clerical and administrative positions… Many of the managers they approached expressed their willingness to employ educated Arabs in their factories.[[136]](#footnote-137)

In another instance, during a Knesset discussion about unemployment of educated Arabs, Prime Minster Ben-Gurion stated:

I approached different offices that are able to employ educated Arabs . . . . [It is] what the government can and should do: I believe it will be done. I gave the order to the representatives of the different offices to vigorously approach this, so in each government office a few suitable educated Arabs will be employed.[[137]](#footnote-138)

Training courses also served to increase the integration of educated Arabs in the public and private sectors. In a 1964 letter from the Advisor to the Office of the Prime Minister, the Advisor explained that while much of the educated Arab population was already employed by the government, many were not accepted to the positions they were interested in. The solutions, the Advisor explained, were twofold: “A) opening special professional courses for young Arab and Druze which will train them to serve in different positions in the government and elsewhere. B) Raise the level of education in Arab villages.”[[138]](#footnote-139) These training courses provided full professional training in social work, accounting, nursing, teaching and the clergy.[[139]](#footnote-140) Other initiatives included establishing Hebrew language courses and vocational training courses to prepare Arabs for jobs in the public sector.[[140]](#footnote-141) Special courses were also opened to prepare Arabs for Israel’s civil service exams.[[141]](#footnote-142) In another report, the Advisor noted that educated Arabs who managed to obtain government jobs often failed the civil service exam. As a solution, it was suggested to allow Arab workers to take the exam after one or two years on the job, thus allowing them time to prepare by becoming more fluent in Hebrew and better integrated into society.[[142]](#footnote-143)

These employment initiatives were supplemented by efforts to increase the number of Arabs receiving higher education and training opportunities for skilled professions. These included efforts made by the Ministry of Health in 1958 to reach a “significant percentage” of Arab women studying nursing and to recruit Arab women for nursing positions.[[143]](#footnote-144) The Ministry of Education established teaching training centers for Arabs and distributed stipends to Arab students.[[144]](#footnote-145)

1. *Higher Education*

The percentage of Arabs among all higher education students rose from 0.6 percent (forty-six students) in 1957 to 1.7 percent (607 students) in 1970.[[145]](#footnote-146) This increase can be attributed both to natural population growth and to an increase in Arabs graduating from high school. Most of the efforts to integrate Arab students into the higher education system were made by the universities, with the government playing a much smaller role. There is even evidence of Hebrew University giving some preferential treatment to Arab students. In 1959 news article, the university’s dean of students reported that:

In principle, the University does not know who is Jewish and who is Arab. In the admission forms, the student is not asked to write his [or her] national origin. Yet there is positive discrimination [*aflia letova*] in their [the Arabs’] favor. Not just in housing. But also in admissions and the distribution of stipends. Six years ago, there were very few of them and the Ministry of Education wanted to encourage them. Special assistance funds were established. [[146]](#footnote-147)

He acknowledged that, outside the university, the Arab students experienced different hardships, such as salary discrimination and the limitations on their movements imposed by the military regime.[[147]](#footnote-148) In 1965, in a letter responding to complaints about discrimination against the Arab minority, the speaker of the Ministry of Education explained that the low number of Arab students studying at the Technion (the Israel Institute of Technology) was attributable to the low numbers of Arab high school graduate students rather than any kind of discrimination. The speaker added that “Arab students experienced “positive discrimination” [*aflia letova*], similar to that experienced by [Jewish] pupils from Mizrahi countries. This [positive] discrimination involves receiving special stipends from special funds designated for students of this type only, and in the policy of B-norm in the annual *Seker* exam.”[[148]](#footnote-149) The *Seker* exam was a national exam used for eighth-grade pupils between 1958 and 1972. Those passing the exam were eligible for high school tuition subsidies from the Ministry of Education, according to a scaled fee, which took the pupils’ socioeconomic backgrounds into account.[[149]](#footnote-150) It is not exactly clear what a “B-norm” means in this context, but it appears to refer to some kind of preferential treatment with regard to high school students’ tuition.[[150]](#footnote-151)

In addition, grants, stipends and loans were systematically granted to a number of Arab students each year by the government, the Histadrut, and private funds, in order to enable them to pursue academic studies at the Hebrew University and the Technion.[[151]](#footnote-152) Even more significant was Prime Minister Levi Eshkol’s declaration of his commitment to integrating educated Arabs into the public sector. He announced that his government would create a fund to help Arab students in need complete their studies.[[152]](#footnote-153)

1. *The Judiciary*

 At the very end of the second decade, an initiative to appoint Arab judges was set in motion. Until the end of the 1960s, only two Arab judges had served in the judiciary. However, as Guy Lurie revealed, in 1967, Judge Azulay, then the president of the Haifa District Court, wrote a letter urging the Appointments Committee to appoint more Arabs to the bench. Attached to this letter was a list of twenty-eight Arab lawyers who were “professional enough,” in his opinion, to be appointed as judges. “It was time,” he believed, “to reach out to this sector of jurists and help them get ahead.”[[153]](#footnote-154) The letter does not suggest any specific measures, but it implies that it sought to give preference to Arab candidates who might not have been the best, but were “professional enough.” Indeed, seven lawyers from this list were ultimately appointed, including three by 1970.[[154]](#footnote-155)

1. The Road not Taken: Educational Integration, not Enhancement

Deep disparities between Arabs and Jews existed during the first two decades of the state. The inequality between the two communities predated the founding of Israel, and it only intensified over the first decade, in part because of discriminatory budgetary allocations and the process of land expropriation.[[155]](#footnote-156) An additional factor was that even during the second decade, Arab local authorities either had not been established or were poor and unorganized, and thus unable to carry out their responsibilities to funding schools, housing and other services.[[156]](#footnote-157) It was within this context that officials began focusing more attention on addressing the disparities between the Arab and Jewish populations.

Addressing the issue of education, in 1960, the Committee for Arab Affairs proposed a policy suggesting establishing integrated elementary schools in mixed cities of Jews and Arabs. At this time, the committee was chaired by Abba Hushi, who was also the mayor of Haifa—one of the largest mixed cites. The proposal also called for integrating *all* high schools, both academic and professional, as well as teacher training seminars.[[157]](#footnote-158) These schools were to be “Israeli,” which, according to Hushi, meant that they would be mainly Jewish schools with some accommodations for the study of Arabic language, literature and religion during designated hours.[[158]](#footnote-159) Bechor-Shalom Sheetrit added that this solution would encourage the Jewish children to learn Arabic, Arab culture and history, and enable children to grow up together.[[159]](#footnote-160) Even Moshe Dayan, the prior chief of the military and the Ministry of Agriculture, stated that Israel was “not a binational state,” but accepted the proposal.[[160]](#footnote-161)Another committee member opposed this proposal and raised Israel’s fundamental commitment to allow Arabs to have Arab-speaking schools, as well as the possible objections from Jewish parents.[[161]](#footnote-162)

When the committee discussed this proposal again in 1962, while it did not officially reject the plan, Advisor for Arab Affairs Uri Lubrani stated that the routine of separation would be very hard to break. Instead, he suggested that “maximal integration of Arab and Jewish schools should be achieved—where possible.”[[162]](#footnote-163) Yet even this more practical version of an integrative policy was never adopted. The leading line of policy adopted instead was reflected in a report prepared by the Committee for Arab Education, which declared that “the natural place for the Arab students is at Arab-speaking schools,” although the government “should not object to Arab children learning in Hebrew schools.” An exception was made for professional training, which more directly led to economic integration. Lubrani stated that “Arab pupils should be encouraged to enroll in professional and agriculture Hebrew schools.”[[163]](#footnote-164) This separatist logic, the report detailed in a following section, was not understood to be in opposition to “the ideal of integrating the Arab population into the life of the state, by giving them the opportunity and ability to live and earn in mixed cities and pure Arab regions. Their education should be directed at professions that will might make it easier for them to economically integrate into the state.”[[164]](#footnote-165) Further, it was explained that “feelings of equality and good relationships between the two nations should be encouraged, yet social intimacy should be avoided at it might lead to unwelcomed developments, such as mixed marriages.”[[165]](#footnote-166) This plan emphasized that the way to integrate the Arab population was economic, not educational.

Instead, efforts related to education concentrated on improving and alleviating inequality in schools’ physical conditions and educational offerings, and on raising enrollment levels. The measures adopted included building more Arabic-speaking schools, and more classrooms in Arab villages and in Arab neighborhoods in mixed cities.[[166]](#footnote-167) Special efforts were also made to integrate Arab girls into the Arab educational system.[[167]](#footnote-168) In 1967, Israel adopted a five-year plan for expanding Arab education. It included building 1,400 new classrooms for the Arab sector, establishing new regional standards and vocational high schools for Arab children, and funding training for 200 new Arab teachers annually.[[168]](#footnote-169) As will be shown in subsection II.C, during the first two decades of the state, there was a constant increase in educational achievement levels and in the number of schools and classrooms in the Arab sector. However, the gap between the Arab and Jewish systems remained deep.[[169]](#footnote-170)

Other policies and long-term action plans were proposed to improve education among the Arab population and, more generally, their living conditions. These initiatives, often referred to as plans to develop the Arab village, were rather comprehensive. They included budget allocations or government loans for repairing and improving infrastructure and public services in Arab villages. Most substantial were the five-year plans the government adopted during the second decade. The first plan, adopted in 1962, was aimed at improving the lives of the Arabs in three main fields: “complete receipt of all basic services,” which were considered the basis for economic development, as well as “investments directed at increasing employment and elevating levels of income.”[[170]](#footnote-171) Similarly, the second five-year action plan of 1967, together with additional policies, set similar goals and made investments in improving services, consumption, education and standards of living, as well as promoting full employment.[[171]](#footnote-172) As discussed in detail in subsection II.C, the five-year plans included government expenditures seven times higher than those of previous years, from 1957 to 1962. However, while these plans did improve infrastructure and living standards, they had little effect in reducing the deep and consistent disparities between the Arab and Jewish communities.[[172]](#footnote-173)

This section described state officials’ different mechanisms of promoting workforce integration, as well as the plans to improve but not integrate the education system. While many of the adopted measures are recognizable today as affirmative action techniques, their adoption, the following subsection shows, was not necessarily motivated by progressive or egalitarian aspirations. The following subsection analyzes the discourse that accompanied these policies in order to expose their underlying principles and motivations.

## **On Motivations: Security, Economy, International Legitimacy, Partisan Concerns and Egalitarian Ideals**

 This subsection traces the multiple and often contradictory motivations that led public officials at the time to pursue affirmative action measures. Analyzing policy plans and reports, as well as protocols of the discussions that led to their adoption, reveals the different reasons and justifications that officials gave for adopting such measures. This analysis recognizes that there can be disparities between actors’ actual motivations and the justifications they offered. Nonetheless, the insular nature of the materials under study, as well as the open and explicit manner in which both oppressive and egalitarian motivations were discussed, indicates that, generally, officials’ stated motivations are genuine. As a result, this examination provides a unique opportunity to learn about the conflicting motivations behind affirmative action measures.

This study reveals four types of instrumental motivations for adopting affirmative action measures: ensuring security and social order; advancing economic growth; attaining international legitimacy; and addressing partisan concerns. There is also a fifth type of motivation, revolving around reaching egalitarian ideological goals. Concerns for the security of the young Jewish state and the stability of the regime, as well as aspirations for national economic growth, were the most dominant justifications raised in discussions over affirmative action. Often, though, the same discussions and even the same officials cited mixed motivations. While egalitarian sentiments were expressed in many cases, they rarely stood as an independent motivation for promoting employment affirmative action.

1. Security Concerns and Public Order

 It is not surprising that security concerns and a perceived need to sustain stability played a major role in the state’s approach toward the Arab minority in its first two decades of statehood. It is less obvious, however, that security considerations were behind officials’ decisions not only to execute restrictive measures, but also to adopt affirmative action measures. For the most part, policymakers acted under the assumption that the Arab population was or could easily become a security threat to the state, and that steps for improving their material conditions needed to be taken in order to prevent any escalation of conflicts. Reducing unemployment and raising the material status of the Arab minority was a way of managing the crisis, preventing riots and, more generally, maintaining the public order and the stability of the newly established regime.[[173]](#footnote-174)

Reuven Bareket, the architect of Mapai’s first 1958 action plan, articulated the security approach clearly, asserting that the government should adopt measures to integrate and benefit the Arab minority for security reasons. The Arab population, he explained, had connections to hostile foreign populations from Arab countries, and “the majority of the Arab sector is hostile to the state.”[[174]](#footnote-175) He then presented three possible approaches for dealing with this situation: “displacement, assimilation or liberalism.” Bareket acknowledged that there would be no displacement and exhorted that hopes for assimilation should also be abandoned.[[175]](#footnote-176) Consequently, he argued that the state must “deal with the Arab minority with a liberal line of policy.” Further, in order to fight dangerous separatist trends in Arab society, he declared that, “the goal should be integration—not full, but acceptable more or less—of the Arab sector in all aspects of life.”[[176]](#footnote-177) Making the case for promoting employment integration, Bareket explained that, “if we create cooperation between ten Jews and ten Arabs, these ten Arabs then become a cell of resistance to irredentist activity.”[[177]](#footnote-178) Bareket further argued that, “the more the economic interests of the Arab sector are tied and aligned with those of the state, the more its responsibility for the security of the state will grow.”[[178]](#footnote-179)

Officials asserted that the better the Arab population’s lives were and the more integrated they felt, the more they would identify with the state and the less with enemy Arab nations. This would thus make them more loyal, and render the state less vulnerable to incitement and takeover by hostile forces within and outside of Israel’s borders.[[179]](#footnote-180) For example, a 1960 report by the Government Committee for Problems of Employment and Professional Training of Arab Youth recommended implementing a set of affirmative action measures which “could dissolve the bitterness of the Arabs” and “distance the Arab youth from the devastating effects of underground organizations.”[[180]](#footnote-181) Its authors feared that poor conditions could become a “source of hatred.”[[181]](#footnote-182) Similarly, in a policy plan that was largely adopted by the government, the Advisor for Arab Affairs explained that the state must integrate the Arab minority, to “decrease as much as possible the formulation of an independent dangerous sector . . . . [T]his will not make the loyal citizens, but with time, it will downsize the open animosity and its explicit manifestation.”[[182]](#footnote-183) Rising unemployment was also considered dangerous, as it created negative attitudes towards the state.[[183]](#footnote-184) Aharon Beker, Chairman of the Histadrut from 1961 to 1969, articulated this view clearly, arguing that the state had to integrate the Arab worker into the national economy, “so he would carry the responsibility to ensure and promote its security.”[[184]](#footnote-185)

Others advocated employment affirmative action measures as a way to promote security by fostering loyalty, not via simple material relief, but through the cultivation of a kind of partnership between the Arabs and the state—or at least the appearance of one. For example, an official in the Histadrut explained that:

In order to prevent the danger that the minorities left in the state would become its haters and fight it, [the state] must do everything in order to integrate them; constrictive organic integration, on the basis of equal rights and duties . . . . [O]nly such a regime can bring a minimal chance for moral change in the Arabs’ views about themselves and us, and only it can open a crack for a relationship of true peace and mutual benefits.[[185]](#footnote-186)

Another interesting illustration of this logic can be found in a discussion that developed surrounding the decision made in 1962 to integrate Arabs into a seminar designed to train youth movement leaders. The decision was made, it was explained, because the Mapai party could not abandon the youth and leave them in the hands of hostile powers.[[186]](#footnote-187) Moshe Sharett, who was Prime Minister from 1954 to 1955, between Ben-Gurion’s two terms, further explained:

We must believe [the Arabs] that their situation is difficult. On the one hand, they feel themselves to be residents of Israel. They were born here; their lands and homes are here. On the other hand, they are nationally connected to the Arab nations outside of Israel. The question is: will we allow external influences to take over, or must we strengthen our ties with them? We must educate and bring them closer to us from equality and understanding. If we will not do so, they will hear and watch [Egyptian President Gamal Abdel] Nasser on the TV screen and will hear and read the many words of indictment from our foes. And therefore, we must include Arabs in our groups so they can learn from us and grow closer to us.[[187]](#footnote-188)

In contrast to the articulated goal of cultivating loyalty by bringing the two communities closer together, another method for enhancing the state’s security was to try to prevent the political consolidation of the Arab minority into one national Arab movement by creating divisions between the community’s different ethnic groups: Muslims, Druze, Bedouin and Christians.[[188]](#footnote-189) One common method used to achieve this goal was breaking up the territorial continuity of Arab communities by building Jewish settlements among them.[[189]](#footnote-190) Another method involved granting preferential treatment to some subsectors within the Arab population in order to cultivate independent and conflicting interests in each community. As Reuven Bareket explained, in order to secure Israel, it must “cultivate within each sector [within the Arab population] its own sectorial interests, by positive discrimination (*aflia letova*) and preferential treatment.”[[190]](#footnote-191) The most prominent illustration of this approach could be seen with respect to the Druze community, whose members enjoyed a somewhat favorable status.[[191]](#footnote-192)

1. The Economy

Another leading rationale for affirmative action for the Arab community at that time was the health and prosperity of the national economy, which was predominantly Jewish. Officials were interested in the development and flourishing of the state’s economy and realized that unemployment and under-development of certain sectors would hold back the entire economy.[[192]](#footnote-193) Given these motivations, officials promoted initiatives to develop the Arab sector and to integrate Arab workers into the Israeli economy. An additional factor, albeit one less openly discussed, was that the integration of Arab workers into the workforce, especially in the production and construction sectors, could provide cheap labor to support the development of the state’s infrastructure.[[193]](#footnote-194)

The economic rationales for taking affirmative action measures were not only these familiar utilitarian ones. The main economic interest in integrating the Arab population was to repress the Arab economy that was, prior to the establishment of the state, independent. The Prime Minister’s Advisor for Arab Affairs contended that the integration of Arabs into the state’s economy was necessary “in order to prevent the creation of an independent Arab economy which would strengthen the Arab autonomy.”[[194]](#footnote-195) Integration, it was further explained, would prevent future competition between the Arab and Jewish economies.[[195]](#footnote-196) Mordechai Namir, the Chair of the Committee for Arab Affairs, similarly said that “if the Arab sector became a separate sector and grew as such, it could be a major threat . . . .The remedy is general economic integration.”[[196]](#footnote-197)

Further, during the second decade of statehood, there was a growing belief among state officials that the Arab sector had accumulated a significant fortune. Therefore, policymakers thought that development, integration and cooperation would promote consumerism in the Arab sector, which would, in turn, lead to the transfer of funds “back” to the state.[[197]](#footnote-198) For example, the Prime Minister’s Advisor for Arab Affairs wrote that any attempt to circulate funds accumulated in the Arab sector back into the state’s economy must include modernization to support Arab consumption.[[198]](#footnote-199) In another instance, the Minister of Health, Josepf Sarlin, asserted that Israel had created a situation in which the Arabs were getting wealthier, because, among other reasons, the limitations on their movements meant that they could not spend the money they earned outside of their villages. As a result, he said, all their money remained within their own sector and did not return to the Jewish economy. Radical action needed to be taken, he argued, to change this situation.[[199]](#footnote-200)

1. International Legitimacy

A third type of motivation for affirmative action involved external considerations—mainly the perception of Israel in the eyes of the international community. Archival documents reveal that the international community already had concerns about anti-Arab discrimination during the early decades of the state. Although, as the last subsection shows, Israel’s democratic and moral commitments to equality were sometimes articulated by Israeli officials as an intrinsic rationale for adopting affirmative action measures, these commitments were also often mentioned as way to produce international legitimacy. In 1958, advocating for a series of affirmative steps, the Chair of Mapai’s Committee for Arab Affairs noted that “not only the non-Jewish public opinion has become interested in the problem in Israel, but also certain circles of the global Jewish community . . . . They are starting to show concern and dissatisfaction with the way we are handling this problem.”[[200]](#footnote-201) Another example can be found as early as 1948, when Histadrut leader Mordechai Namir stated that it was time to include (*le’hachil*) the Arab workers into the organization in order “to honestly and in good faith show the Arabs, and perhaps also other nations, an example of civil relations between two nations in one country.”[[201]](#footnote-202)

A speech Ben-Gurion gave in 1960 is especially interesting in this context. In it, Ben-Gurion explained that the Arab problem had two aspects that were seemingly contradictory. The first, he explained, “is the character [the state] *needs to present to the world*—a principle of equal rights and democracy. The second aspect is the *security* of the state . . . .”[[202]](#footnote-203) This contradiction, he explained, “can be minimized by taking the right policy.”[[203]](#footnote-204) Ben-Gurion then listed a series of integrative measures that could minimize this contradiction, including the integration of Arabs into Mapai itself, the government, the workforce, and even the Jewish kibbutzim and villages.[[204]](#footnote-205)

1. Partisan Concerns

During the first decade of Israel’s statehood, the Arab population’s main avenues for political activity were threefold: satellite Arab parties affiliated with Mapai, Mapam (The United Workers Party), and Maki (the Israeli Communist Party). In 1959, El-Ard, a Pan-Arab national movement, was formed by a group of Arab intellectuals with the aspiration of bringing equality to all inhabitants of Israel and finding a fair solution to the Palestinian problem.[[205]](#footnote-206) While eventually blocked from competing in the national elections, El-Ard, like Mapam and Maki, adhered to egalitarian ideologies and criticized Mapai for its approach toward the Arab minority and the prolonged military regime. Ron Harris reports that Mapai used the mechanisms of the military regime, and especially its ability to limit the movement of Arab political activists, to promote its partisan interests by regulating Arab political activity.[[206]](#footnote-207) Similarly, this study finds that, in Mapai also used affirmative action measures in its struggle to win the Arab vote,.[[207]](#footnote-208) For example, in 1961, Abba Hushi opened a meeting of the Mapai Committee for Arab Affairs by saying, “[w]e were established as the election headquarters for the Arabs. Our work is much harder and much more complicated than in the last elections.”[[208]](#footnote-209) One way to attract Arab voters to Mapai, officials argued, was to reward the Arabs and integrate them into institutions affiliated with the party, such as the Histadrut. For example, in the discussion regarding the integration of Arabs into a youth leaders’ seminar in 1962, one official explained that, without integration, the party would be abandoning the youth, who would soon become voters, to the devastating influences of Maki and Mapam.[[209]](#footnote-210) The Advisor for Arab Affairs explained that parties other than Mapai were buying the Arab vote or providing other benefits in exchange for it. Mapai, the Advisor asserted, was losing the Arab vote. Therefore, he recommended that the party should “gradually integrate Arabs within its fold.”[[210]](#footnote-211)

1. Egalitarian Ideologies

Along with the instrumental motivations for affirmative action, ideological motivations also played a role. There was no unified egalitarian ideology supporting affirmative action, but different moral intuitions, both liberal and socialist, led officials to pursue more egalitarian policies and, in some cases, to support affirmative action measures. Some of the universal moral arguments were rooted in liberal aspirations for equal citizenship. As early as September 1948, Israel’s first Minister of the Interior promised the Arab minority that there will be “a single constitution for all inhabitants of Israel. The Jews have suffered too much to allow themselves to deal unjustly with Israel's Arab citizens.”[[211]](#footnote-212) Yizhak Ben Zvi, Israel’s second president, advocated for the inclusion of the Arab minority into society. In a similar vein, he explained that, especially after what the Jews had suffered, they must get used to being just rulers.[[212]](#footnote-213) In another instance, Ben Zvi declared that the idea of removing the Arabs from Israel “is in opposition to the entire democratic and Jewish character of our state,” and that the only option was to work for the integration of “Muslims, Christians, and Druze as citizens with equal rights and as communities with equal rights in the state.”[[213]](#footnote-214) As mentioned, the different plans authored by Mapay’s Committee for Arab Affairs articulated the aspiration to “gradually include the Arab population in social life, culture and economy of the state, for the optimal realization of complete equality in rights and obligations of every Israeli citizen, as a citizen (without ignoring, not for a minute, security problems).”[[214]](#footnote-215)

 In 1959, Prime Minister Ben-Gurion, who also held a strong security approach,[[215]](#footnote-216) explained that the state “should help the Arab intelligentsia adapt to the national economy and governmental and private clerkship . . . not because . . . it will bring peace with our neighbors . . . but because they are citizens of Israel and they deserve the same entitlements as any other Israeli citizen.”[[216]](#footnote-217) In 1960 he further explained that there is antisemitism in Israel against Arabs, and in order to denunciate it, there is a need "to welcome Arabs to the party, to the Histadrut, to the Kibbutzim—as members and as employees. And not in elections night or for the elicitations, we need to welcome them [the Arabs] in all governmental offices, with only one or two exceptions, to welcome them to all businesses, to all institutions, Arab teachers should teach in Hebrew schools and Hebrew teachers should teach in Arab schools.”[[217]](#footnote-218)

In other instances, arguments made mostly by Mapam members emphasized the socialist aspirations of fairness and equality for members of the working class. For example, in response to discussions about the integration of Arabs into the Histadrut, a Histadrut member affiliated with Mapam published an op-ed criticizing Mapai and arguing that “Mapai is not ready, maybe even not capable, of treating Arabs with equality and friendship. It is sometimes willing to give favors, but it does not know solidarity without patronizing . . . . Its approach to the status of Arabs and their rights,” he added, “is very bad and far from the principles of integrity and democracy.”[[218]](#footnote-219) Ten years later, the Secretary General of the Histadrut said that “the Histadrut honestly sees the Arab laborer as an inseparable part of the workers’ population of Israel, and it is determined to advance the Arab worker. . . .”[[219]](#footnote-220) In another instance, a 1965 report by the Committee for Arab Affairs noted that “as a just and moral country, and from committeemen to our social ideals, we intensively worked to involve the Arabs in most of our development enterprises, from which the Jewish sector enjoyed. We developed an education system better than in any Arab country, and nurtured a generation of educated Arabs... We did much to allow the integration of this generation of educated Arabs into the State's civil life out of feeling of partnership and responsibility.[[220]](#footnote-221)

Reflecting on the co-existence of these contradictory motivations, in 1962 Moshe Dayan said that “when it comes to security we cannot allow full equal rights, but in other fields of life, probably *not* education and such, but in the economic field—they are equal to Jews. But between this formula and its formation in real life, the gap is huge . . . for this, we need to take from one and give to the other. Because if equality, then equality.”[[221]](#footnote-222) This statement also shows how different motivations lead state officials to adopt different approaches in the fields of economy and education.

## **Effects: Employment Affirmative Action and Hierarchical Inclusion**

Thus fare, this article has demonstrated that different mechanisms seeking to promote the inclusion of the Arab population into the national workforce were employed during its first two decades for various, sometime contradictory, reasons. This section tries to assess the effects of these mechanisms on inequality between the Arab minority and the Jewish majority during those years. Given the overall stability and persistence of the control framework over the Arab population during the state’s first two decades, and in light of the sustained subordination of the Arab minority,[[222]](#footnote-223) an immediate and very appealing answer is that affirmative action measures served the regime, or, at the very least, did very little to upset it, simply because it is clear in retrospect that the hierarchical regime was not destabilized.[[223]](#footnote-224) While this response has some degree of validity, it is not sufficiently nuanced or accurate to reflect the complex reality. Ian Lustick warns about the tendency to over-interpret every aspect of reality to fit the functionalist model of control.[[224]](#footnote-225) Consequently, this article instead, analyzes the different changes that occurred during those years and examines how affirmative action mechanisms took part in advancing them. I suggest that these mechanisms did not simply threat nor did they sustain any status quo. Instead, they took part in the transformation that took place during those decades from complete segregation and strict military oppression imposing limitations on movement and work directly imposed in the first decade, to a different kind of more integrated economic subordination that occurred during the second decade of statehood.

With the inception of the state and after the 1948 war has ended, Arabs and Jews in Israel were largely segregate in every aspect of life: geographical, educational and employment. Over 90% percent of the Arab population lived in separate villages or towns.[[225]](#footnote-226) The schools, which were completely segregated during the British Mandate over Palestine, remained that way after 1948. This segregation was not imposed by a formal Jim Crow-like regime, but instead was a reflection of the residential segregation as well as a result of reoccurring decisions made by state officials to facilitate Arab-speaking schools for the Arab population.[[226]](#footnote-227) Much like the schools, prior to the establishment of the state, the Arab and Jewish economies and workplaces were also largely separated. As Zachary Lockman describes in his book *Comrades and Enemies*, the dominant Labor-Zionism ideology of “Hebrew labor” and “labor conquest” led Zionists leaders to “pursu[e] Hebrew labor and build up a relatively self-sufficient Jewish high-wage sector.” While there were some cases of cooperation between Arabs and Jews during the British Mandate, these mostly dissolved with the outbreak of violence following the United Nations Partition Plan in November 1947.”[[227]](#footnote-228) The starting point at the inception of Israel, was largely one of residential, educational and employment segregation.

 Until 1957, this separatist structure was mostly sustained. In research published in 1966, Yoram Ben-Porath described that in the period before 1957, high rates of unemployment in the Jewish sector caused mainly by the influx of Jewish immigrants of the early 1950s led the Israeli government to continue protecting the ideal of “Hebrew Labor” and limited the ability of Arabs to work outside their villages. This was mainly done by the permits system imposed by the military regime.[[228]](#footnote-229) And indeed, as section II.A.i shows, affirmative action measures adopted during the first decade mostly sought to fight Arab unemployment and integrate Arabs into the workforce, and especially public works projects, but for the most part were not directed at integrating them into predominantly Jewish institutions and businesses or the civil service. Yet by 1957, the separatist economic structure was starting to change, while the educational one was sustained. With the integration of the Jewish newcomers into the workforce and the economic prosperity and high rate of employment in the Jewish sector in those years, the limitations on movement and employment imposed by the military regime were significantly eased.[[229]](#footnote-230) This Article showed how the weakening of the restrictions imposed by the military regime was supplemented by the adoption various affirmative action measures seeking to integrate Arab workers into the national workforce, and specifically into the civil service and Jewish-run institutions and businesses.

Reports describing employment trends in the Arab population confirm that during the second decade of Israel’s statehood, there was a massive integration of Arab workers into the national economy. Yair Bäuml calls this “the migration of the Arab workers from the Arab sector to the Jewish sector.”[[230]](#footnote-231) Between 1959 and 1968, the number of Arabs working for state or Jewish-owned industries, rather than in Arab villages, increased by 150 percent from 48,000 to 82,800.[[231]](#footnote-232) While in 1959, just 20 percent of Arab workers were employed outside their villages, in 1966, 50 percent of Arabs were employed outside their villages, mostly in Jewish-owned business, Kibbutzim and other municipalities,[[232]](#footnote-233) and the civil service.[[233]](#footnote-234) Ben-Porath, who also described these trends, emphasized the rapid nature of this change in the mobility and integration of Arab workers into the Jewish sector.[[234]](#footnote-235) What was before largely two separate economies—one Arab, mainly agricultural, and confined to Arab villages, and the other Jewish and diverse—was transformed in those years, with half of the Arab workers employed by Jewish-owned businesses and by the state, mostly without changing their place of residency.[[235]](#footnote-236)

However, this integration was not equally distributed along the socioeconomic ladder. Abba Hushi described the situation in Haifa, and explained its largely represents the working patters of Arabs in the early 1960s:

About 5000 Arabs who live outside of Haifa work in it... They took-over entire professions. Gardening completely. Half of construction. Not only unskilled work. They work in repair and welding—80 percent. Tens precepts work in refineries, they are in key positions. 900 Arab women work in household jobs... On the other hand, the market is closed to Arabs high-school graduates... Therefore, we need a transition... We need to open the market to Arab workers. We need not just to open it, but to create *active equality*. We need to work so they would be employed by Solel-Boneh [at the time the largest construction company] for example. Solel-Boneh employ many [Arab] laborers, but not one administrator (*Pakid*), maybe one or two.[[236]](#footnote-237)

However, Hushi’s hopes that effort to promote “active equality” in the workforce would transform these patterns of hierarchical inclusion, were dissolved. The majority of Arabs who started working for Jewish employers or for the state during the second decade were employed in unskilled manual jobs, mainly in construction.[[237]](#footnote-238) Approximately 57 percent of the Arabs who entered the national workforce were employed in agriculture, construction and other unskilled jobs, compared to only 12 percent of the Jewish workers employed in those occupations in that period. Between 1959 and 1968, the percentage of Arabs employed in commerce and services, such as in Jewish-owned hotels and restaurants, increased by 43 percent, the percentage of Arabs working in construction increased by 77 percent, and the percentage of Arabs employed in clerical jobs increased 11 percent.[[238]](#footnote-239) Arab workers in the Jewish sector were usually paid less than Jewish workers, albeit still earning more than they would have in the Arab sector.[[239]](#footnote-240) This shows that while Arabs and Jews started joining integrated workplaces, they held largely different occupations. At the same time, while the percentage of Arabs employed in clerical and related jobs in the civil service increased from approximately 2.3 percent in 1958 to 2.6 percent in 1964 and approximately 3.6 percent in 1969,[[240]](#footnote-241) it was far lower than their proportion of the population (11.4 percent in 1961 and 14.1 percent in 1967). These numbers include state jobs in governmental services and clerical jobs in Arab regions, but also jobs in mixed cities or districts. These numbers do not include Arab teachers, who were also state employees, but whose trainings and employment were segregated.[[241]](#footnote-242) Similarly, the percentage of Arab university students rose from 0.6 percent (46 students) in 1957 to 1.7 percent (607 students) in 1970,[[242]](#footnote-243) but this was still minimal in comparison to their proportion of the population. Further, many of them dropped out before obtaining a degree.[[243]](#footnote-244) Thus, affirmative action measures did lead to greater inclusion of the Arab population in the national economy in ways which were previously unknown and which cannot be taken for granted. They created a new economic reality, in which Arabs who were either unemployed or worked in agricultural jobs within Arab villages increasingly worked for and with Jews in hotels, factories, hospitals, construction projects and more. However, this remained a case of hierarchical inclusion, in which Arabs mostly worked for Jews in low-paying and low-skilled jobs, while their integration into the civil service (except as teachers), higher education and high-paying jobs was very minimal.

There are two not mutely exclusive central explanations for this hierarchical inclusion and the role of affirmative action in promoting it. The first is simple: that the affirmative action measures taken were not sufficient and that, despite making efforts, government offices and Jewish business owners continued to discriminate against educated Arabs.[[244]](#footnote-245) The second, complementary explanation is that there were consistently fewer qualified Arabs candidates for jobs. There were fewer high school and university-educated Arab graduates, and that those who did graduate were generally less qualified than their Jewish peers. A report from 1963 concluded that a primary reason for the difficulties the Arab population experienced in finding jobs in the state’s economy was attributable to “its relative backwardness in education and social fields in general and its professional training in particular.”[[245]](#footnote-246) Similarly, a report from 1964 on Arabs’ employment in government suggests that “the low level of the candidates can be attributed to various reasons, social and culture conditions, and the unequal level of education to the one in Jewish schools.” Prime Minister Eshkol also stated that “the main problem in employing educated Arabs in the government is their low level of qualification and their inability to pass the exams. The level of education in the Arab and Druze public schools—despite the efforts of the Ministry of Education—has not yet, for different reasons, caught up to the levels in Jewish schools.”[[246]](#footnote-247) Yusuf Hammis, a Knesset member from Mapam, explained what he understood to be the main cause of unemployment among educated Arabs:

Indeed, the percentage of schools as well as Arab students in elementary and high schools increased, yet with this quantitative rise, we see a diminution in the quality of education. This is significant in elementary schools, where students are graduating from eighth grade without full control of reading and writing in the Arab language—their mother tongue. This decrease in the level of education continues in high school . . . and this is the reason for their failure in the matriculation exams. . . . Each year, approximately 300 Arab students graduate from high school. Only five percent of them pass the matriculation exams.[[247]](#footnote-248)

The consistent gap between Arab and Jewish education and its limiting effects on employment is described in reports from the 1970s on the unemployment of educated Arabs. These reports identify the “low level” of educated Arabs’ qualifications and discrimination in the workforce[[248]](#footnote-249) as the two main reasons for the lack of Arab representation in the civil service, especially in decision-making positions and white collar occupations. One of the reports stated that: “The main reasons [for unemployment of educated Arabs] are two: when competing for job openings, the Jews still have an advantage in level and skills. The second reason is that there is a psychological fear of allowing problematic elements to [join] all-Jewish frameworks.”[[249]](#footnote-250)

The findings presented in this section explicitly show that the high gaps in education attendance and levels between Arabs and Jews played a major part in limiting affirmative action efforts in the economic sphere. Yet, this chapter in Israel’s history also suggests that the educational segregation between Arabs and Jews—and the state’s consistent choice to avoid adopting any measures to challenge it—sustained educational inequalities and, in turn, the hierarchical inclusion of Arabs in the workforce. The disparities between Jewish and Arab schools predated the state, and continuing segregation facilitated and sustained these gaps during the first two decades of statehood. During the first decade, Arab schools were overtly discriminated against.[[250]](#footnote-251) In the second decade, the segregated Arab schools were persistently under-funded and did not produce masses of qualified graduates, even though this was also the time when the state adopted programs to enhance Arab education. These measures did succeed in improving infrastructure, attendance levels and the quality of Arab education, but Arab schools consistently lagged behind their Jewish counterparts. The investments in Arab education during the second decade under the two five-year plans were, as Ian Lustick shows, approximately seven times higher than those undertaken from 1957 to 1962, but they did not come close to closing the gaps.[[251]](#footnote-252) The number of schools and school attendance in the Arab sector dramatically increased in those years. In 1970, the ratio of elementary schools to members of the Arb population was almost equal to that of the Jewish population.[[252]](#footnote-253) The number of Arab school students grew by a factor of 2.4 between 1960 and 1970. Nonetheless, gaps in school achievement remained deep and consistent, with 871 Arab children out of 1,000 attending elementary school, compared to 984 of 1,000 of the Jewish children; and 292 out of 1,000 Arab youths attending high school, compared to 668 out of 1,000 Jewish youths.[[253]](#footnote-254) And while the number of Arab students sitting for the high school matriculation exams increased over the years, the percentage of those Arabs who passed the exams until 1970 was only 1.7 percent, far lower than the percentage among Jewish students.[[254]](#footnote-255) An additional and highly influential factor affecting educational inequality was the fact that education was, and still is, mostly locally funded, resulting in consistent gaps in educational investments between wealthier Jewish municipalities and under-resourced Arab ones.[[255]](#footnote-256) Without integration, efforts taken in the field of education improved the conditions and levels of Arab education, but did not come close to overcoming the structural causes of inequality. Furthermore, as Abba Hushi explained, in Arab schools Hebrew has been taught as a secondary language and in an insufficient level that halted the integration of Arab graduates into the workforce.[[256]](#footnote-257)

Context here is important, as during those years, not only the Arab population was educationally segregated; to a large degree, Mizrahi and Ashkenazi Jews were also de facto segregated. Yet unlike the intra-Jewish educational segregation, which was eventually actively combatted, the segregation of Arabs and Jews is often considered as both the given state of affairs and the desired one.[[257]](#footnote-258) Scholars have exposed the limitations of this explanation and have shown how legal rules, and especially the strong decentralization of education in Israel, worked to sustain educational segregation, and, at the very least, limited the element of free choice in addressing it.[[258]](#footnote-259) In line with this scholarship, this Article does not propose a critique of past historical actors, as they were operating when segregation was largely the norm, but instead highlights another way in which the segregated reality was produced and reproduced by law, and was not natural or organic, creating space for evaluation and change. Comparing the “road not taken” of efforts to integrate schools in mixed cities and high schools with the adopted efforts to integrate Arabs into the national economy shows that this form of extreme segregation is neither natural nor necessary. While educational segregation in Israel was and is considered to be a manifestation of multiculturalism, this Article suggests that it is imperative to recognize the costs of this choice.

# Toward New Understandings of Affirmative Action

The previous section showed that practices which are identified today as employment affirmative action were first adopted during a time of state-sanctioned oppression. These practices were motivated by different, sometimes contradictory egalitarian and instrumental ideologies and motivations. Analyzing these mechanisms in light of the changes in Arab employment in those years suggests that affirmative action contributed to the transformation from almost complete segregation imposed by the explicitly oppressive military regime to a more integrated workforce. Yet it also shows how the unequal outcomes of the segregated education systems systematically limited employment affirmative action to hierarchical inclusion. This section explores the insights from this historical account that can be applied to the ways in which affirmative action operates today, including to Israel’s recent affirmative action efforts.

## Affirmative action: Between Integration and Equality

Affirmative action is commonly understood to be rooted in and motivated by positive commitments to the democratic ideal of equal citizenship. As Michel Rosenfeld explains, “[t]he intensity of the debate over affirmative action is due to the shared belief of all participants that they are engaged in an important moral debate concerning fundamental notions of justice and equality.”[[259]](#footnote-260) Some scholars define affirmative action, as Owen Fiss explained, as “a form of compensation for past wrongs.”[[260]](#footnote-261) Others emphasize its distributive function, which can help fight systemic inequality.[[261]](#footnote-262) Similarly, legislators and courts, even when restricting the use of affirmative action measures, have recognized their role as “rectif[ying] the effects of identified discrimination within its jurisdiction.”[[262]](#footnote-263) In Israel, the Supreme Court even titled affirmative action “corrective preference” (*ha’adafa metakent*) and explained that it “derives from the principle of equality, and its essence lies in establishing a legal policy for achieving equality as a resultant social norm . . . . Correcting the injustices of the past and achieving actual equality can, therefore, only be done by giving preferential treatment to members of the weak group.”[[263]](#footnote-264)

Critics on the other hand, argue that affirmative action “distract[s] the subordinate group from the real issues of racial justice.”[[264]](#footnote-265) Most conclusively, Nancy Fraser argued that affirmative action is an affirmative remedy, “aiming at correcting inequitable outcomes of social arrangements without disturbing the underlying framework that generates them,” rather than a transformative one, “aiming at correcting inequitable outcomes precisely by restructuring the underlying generative framework.” [[265]](#footnote-266) As such, she argues that because affirmative action “[l]eav[es] intact the deep structures that generate racial disadvantage, it must make surface reallocations again and again” and “underline[s] racial differentiation.”[[266]](#footnote-267) Henry McGee added to this, and suggested that affirmative action “bourgeoisif[ies]” a sufficient number of minority people in order to transform them into active, visible, legitimators of the underlying and basically unchanged social structure.”[[267]](#footnote-268) The different versions of this critique conclude that affirmative action is inherently ill-equipped to create emancipation or anything close to it. To the contrary, by fixing some of the symptoms of deep inequality, but not their causes, it legitimates this inequality.

This Article suggests that both views are limited by their fixed and rather abstract conceptions of affirmative action, which are based on a form and meaning that affirmative action took in a specific historical context. By studying a historical period in which the same policy makers advancing affirmative action measures were simultaneously engaged in repressive population management, this Article takes affirmative action outside its familiar historical context of struggles for equal citizenship. Defamiliarizing affirmative action in this way can unsettle some of the common assumptions and expectations shared by both proponents and critics of affirmative action. This historical account demonstrates how affirmative action measures are not inherently progressive, nor deterministically regressive and limited. Instead, it shows that the identification of affirmative action with equality is contingent on the policymakers driving it in at least two important ways. First, with respect to motivations, affirmative action measures can be driven by varied, often contradictory, ideologies and interests, some of which align with equality and some of which are benign or even in opposition to it. Second, as to affirmative action’s egalitarian potential, this Article suggests that it is indeed sharply limited, not inherently, but rather by its common use as isolated interventions in the spheres of employment and higher education, while not used to address educational segregation.

1. *Motivation(s)*

Some historical works have already weakened the strong identification between egalitarian commitments and the practice of affirmative action in United States, showing how the justifications and motivations for pursuing affirmative action have changed over time. Most notably, in his book *The Ironies of Affirmative Action*, John David Skrentny revealed affirmative action was not always closely identified with an egalitarian ideology. Relating the early history of affirmative action in the United States, he found that at its origins in the 1960s, affirmative action practices were motivated by instrumental elitist interests.[[268]](#footnote-269) Skrentny and Paul Frymer show how, in the aftermath of the riots of the 1960s, the Johnson administration and business elites advocated for employment affirmative action measures, such as race-conscious hiring, preferential treatment and even employment quotas, “not to remedy past and present discrimination, but to buy urban peace.”[[269]](#footnote-270) Affirmative action, they suggest, was understood as a tool to “mitigate the crisis [and] help to maintain control and order.”[[270]](#footnote-271) It was only later, during the 1970s, when courts became involved in controversies over affirmative action, that affirmative action practices became so closely identified with the ideals of racial justice.[[271]](#footnote-272) Others have documented the shift from egalitarian interests to the adoption of the diversity rationale, as well as the more recent takeover of the business case for affirmative action.[[272]](#footnote-273)

This Article has described how affirmative action measures were motivated by a host of instrumental reasons concerning the security of the young Jewish state and its economic wellbeing, as well as by concerns about international legitimacy and narrower partisan interests. It also uncovered how some, sometimes the same, officials, were motivated by a democratic commitment to equal citizenship or other notions of equality, and even overtly aiming at closing gaps or at “positively discriminating” the Arab population. Affirmative action measures, this Article suggests, can be motivated by different, conflicting goals. Instead of revealing one dominant strand of motivations, the overt and raw historical discussions detailed above show the co-existence of the diverse and often contradictory interests and ideologies that motivated governmental officials to pursue employment affirmative action measures. No serious controversy surrounded the adoption of these early measures and, while there was no coordinated approach toward the Arab population in those years, together these various motivations pushed policymakers to adopt employment integration. In this sense, the Article’s contribution is not to expose any single alternative motivation for affirmative action, but to show how it can hold completely contradictory commitments and ideologies at the same time. Uncovering how past forms of affirmative action were made, helps to recognize in turn, how present affirmative action policies came to be put together and explain, in the context of contemporary Israel, why, at a time of increasing overt nationalism and discrimination, officials might still be motivated to adopt such policies.

1. *The Limitations of Isolated Employment Affirmative action*

Whether because of notions that educational integration has been tried and failed, as part of a multicultural ideology and a strong ethos of “separate but equal” as in Israel,[[273]](#footnote-274) or as a combination of these two views like in the United States,[[274]](#footnote-275) affirmative action measures have focused mostly on the spheres of employment and higher education. Meanwhile, policy makers have abandoned the spheres of grade-school education and housing. This choice is mostly transparent, as both policy makers and scholars have treated educational and housing segregation as the given state of affairs,[[275]](#footnote-276) and thus scholars have not given enough attention to its implications on affirmative action in employment and higher education. This Article argues that affirmative action should be understood not as an intervention in only the sphere of education or of employment, but rather used across spheres. Conceiving of affirmative action as a comprehensive policy allows for a more grounded critique of the ways in which its presence or absence from one sphere enhances or limits the other.[[276]](#footnote-277) Residential segregation is not only a central source for educational segregation, as scholars have showed us,[[277]](#footnote-278) but also has direct effects on efforts to promote workforce and higher education integration that should be further studied and are beyond the scope of the Article. More directly, as the historical sources highlight, education has a necessary role in promoting equality and social mobility, and thus even though geographical and legal structures, as well as strong ideological preferences, sustain educational segregation, it is important to consider the implications of this status quo on integration efforts in the spheres of employment and higher education.

This Article showed how, starting in the late 1950s, Israeli government officials adopted various practices that are recognized today as employment affirmative action. Together with the weakening of the military regime, these measures advanced the inclusion of Arabs into the workforce. At the same time, the government did not adopt a plan to promote the integration of high schools and schools in mixed cities. Instead, it undertook efforts to ameliorate the poor conditions and levels of education in the Arab sector, without coming remotely close to equalizing it with the Jewish one. The Article argued that, at least to some extent, the educational segregation that sustained these disparities and produced a systemic lack of qualified Arabs has limited the effect of isolated integrationist economic measures. These economic policies advanced what this Article termed hierarchical inclusion, in which increasing numbers of Arabs started working in majority-Jewish institutions and businesses, but stayed in low-status and low-paying jobs at the bottom of the employment ladder. This account raises important and difficult questions about the potential of isolated employment integration efforts today. Most importantly, it raises the question of whether, without efforts to promote educational integration, they can promote anything more than hierarchical forms of inclusion.

In order to start addressing this question, it is necessary to answer others: whether equality between groups can be achieved in the face of substantial educational segregation, and whether non-integrative measures can create equal educational achievements. History cannot provide a definite answer. However, the persistence to this day of deep disparities between Arab and Jewish schools, despite the various programs adopted to enhance the level of Arab education,[[278]](#footnote-279) generates skepticism about the possibility that these separate educational systems could ever be equalized. Segregation, as this historical case demonstrates clearly, allows for unequal allocation of public funds, and efforts to fix it seem to be systematically insufficient. Further, in her 2010 book *The Imperative of Integration*, Elizabeth Anderson explains that the shared multiculturalist and conservative hope that “equality can be achieved through, or at least notwithstanding, substantial racial [school] segregation . . . . is an illusion.”[[279]](#footnote-280) Referring to different theoretical and empirical works, she concludes that the idea that equality can be achieved by moving resources to people rather than by moving people to resources, she contends, has not only proven unrealistic, but is also structurally impossible. Systematically disadvantaged groups lack not just material resources, which are unlikely to be distributed fairly without integration, but also social and cultural capital, which can be acquired, she explains, only through integration.[[280]](#footnote-281) Yishai Blank adds to this account and uncovers the ways in which inequality between separate schools in Israel has been sustained and intensified by the wide gaps between localities, who’s part in education funding increased over time.[[281]](#footnote-282) Finally, in the Israeli context, in Arab schools the primary language is Arabic and poor levels of Hebrew proficiency has been a central barrier for Arab high-school graduates to enter the Hebrew speaking higher education and workforce, and specifically better-status and better-paying jobs.[[282]](#footnote-283) If this assertion that “separate educational facilities are inherently unequal”[[283]](#footnote-284) is taken seriously, and it seems that there are good reasons to do so, especially in the Israeli context, it means that non-integrationist measures to enhance the level and quality of education will often if not always fall short of equalization. Without pursuing some form of inclusion, disparities as well as animosity between the segregated groups will be sustained.

As a result, the disparities systematically produced by school segregation are likely to limit workforce integration to a certain level of hierarchical inclusion. Even a well-intentioned and well-designed workforce integration intervention is structurally incapable of compensating for the inequality produced by a segregated educational system. Authorities and employers often complain that a lack of qualified candidates from the target group limits their efforts to diversify their workforce.[[284]](#footnote-285) In some cases, this is an excuse, but in other cases, such as in this historical account, it is also a reflection of the unequal reality sustained by educational segregation. This does not mean that isolated employment integration cannot achieve progress toward material and status equality, as it certainly does. Rather, when these measures operate in isolation and against a backdrop of educational segregation, workforce inclusion measures risk hitting a glass ceiling. This leads to hierarchical inclusion, in which labor and status are systematically unequally distributed and disadvantaged group’s social mobility is limited.

Complete educational integration might be out of reach for most polities around the world, including Israel. It is often considered to be in direct opposition to multicultural ideals and groups’ rights to cultural autonomy. However, this Article argues that, when designing affirmative action interventions, policy makers should consider the ways in which educational segregation limits affirmative action in other spheres of employment and higher education. Further, the alternative trajectory of partial integration recovered in this historical account suggests that educational integration is not an all-or-nothing solution. It can be promoted in some types of schools but not others, in some age groups but not others, in part of the school day, and it can be incentivized rather than coerced: promoting integrative alternatives rather than integrate the whole system.

## Israel 2018 and the Potential of Higher Education Affirmative Action

While a full account of Israel’s current affirmative action law and policy is beyond the scope of this Article, this section describes the major developments in affirmative action policy that have taken place in recent years. These programs were deployed at a time of rising nationalism, are the developments that triggered this Article’s historical excavation.

In recent years, Israel had been experiencing what some scholars call a “democratic crisis” or “constitutional decay.”[[285]](#footnote-286) Regardless of how one describes this process, it has had far-reaching implications for the status of the Arab minority in Israel. This growing nationalist trend serves to institutionalize the subordination of the Arab population, culminating in the 2018 enactment of the Basic Law: Israel as the Nation-State of the Jewish People. This law codifies Israel’s status as the nation-state of the Jewish people.[[286]](#footnote-287) Similar laws and policies have limited political speech,[[287]](#footnote-288) imposed loyalty conditions on budgetary allocations,[[288]](#footnote-289) and reopened the path to housing discrimination that the Supreme Court had blocked in 2000.[[289]](#footnote-290) As politicians condition basic rights on loyalty requirements, public animosity between the two communities has continued to increase.[[290]](#footnote-291) Today, it seems that the symbolic and political marginalization and exclusion of Arabs in Israel is again becoming overt, institutionalized and, in the eyes of many, publicly legitimate.

Yet, at the same time, the past decade in Israel has brought a growing use of affirmative action measures for the benefit of the Arab minority in different fields. In 2000, at the same year that the Supreme Court determined that the discrimination in the allocation of land between Jewish and non-Jewish citizens of Israel is illegal,[[291]](#footnote-292) the Knesset legislated requirements for adequate representation in the civil service and on the boards of government corporations.[[292]](#footnote-293) These requirements were later interpreted by the Supreme Court as creating a general norm of adequate representation in Israel’s public sector.[[293]](#footnote-294) Yet, it was only In 2007 that the government started taking operative affirmative steps, beyond those required by law, to promote the representation of the Arab minority. These steps included setting quotas and timetables for promoting representation, earmarking an increasing number of new positions for the Arab population, and establishing special training programs for minorities.[[294]](#footnote-295) Indeed, the number of Arabs in the civil service grew between 2007 and 2015 by 88 percent, and their representation grew from 6.17 to 10.6 percent.[[295]](#footnote-296) While these advances are still far from reflecting the Arabs’ 20.7 percent share of the population, much progress has been made in the past decade. Also in 2007, the government established the Authority for Economic Development of the Minorities Sector, with the mission of “developing and integrating the Arab population in the Israeli economy.” Among other measures, this new entity incentivized businesses to integrate Arab workers.[[296]](#footnote-297) Further, on December 30, 2015, the government adopted Resolution 922, a five-year plan to invest NIS 15 billion aiming to promote the economic integration of the Arab sector, by investing unprecedented funds to develop the Arab sector in the fields of K-12 education, higher education, transportation, infrastructure, employment, health care and housing.[[297]](#footnote-298) This plan, as well as smaller-scale initiatives to promote the Arab minority, has since been implemented. Today, there seems to be a consensus across the political spectrum that integrating Arabs will benefit the Israeli economy, especially given their contribution to the national GDP.[[298]](#footnote-299)

These two conflicting trends, commentators and scholars argue, constitute a new, bipolar era for the Arab minority.[[299]](#footnote-300) Ayman Sayaf, head of the Authority for Economic Development of the Minorities Sector, explained how Prime Minister Netanyahu incites animosity toward the Arab minority, but at the same time fights for enormous budgets for them.[[300]](#footnote-301) A 2016 report also relates that recent years have seen “escalation in the relationship between Arabs and Jews alongside trends of integration.”[[301]](#footnote-302) The report further states that “economic integration and development of the Arab minority became fashionable, and, indeed, important practical measures, like the establishment of the Authority for Economic Development of the Minorities Sector, were taken . . . . At the same time, . . . calls to weaken the status of the Arabs and limit their rights have multiplied.”[[302]](#footnote-303)

Trying to make sense of this conflicting reality and of the role of affirmative action in it, the familiar theoretical frameworks are unsatisfactory. These measures are far from any familiar equality-motivated initiatives,[[303]](#footnote-304) yet they are also too robust to simply be cast aside as affirmative remedies or legitimation mechanisms.[[304]](#footnote-305) Tracing their historical roots provides a better framework for understanding and evaluating these measures. First, much like those enacted in the early decades of statehood, these recent affirmative action policies are motivated both by instrumental concerns and by egalitarian commitments to decreasing historical disparities. Israeli officials are no longer threatened by the concept of an independent Arab economy, but they are predominantly motivated by economic concerns. Officials, including prime-minster Netanyahu, often state that the economic inclusion of the Arab sector is necessary to Israel’s economic growth.[[305]](#footnote-306) Some proponents portray this economic integration as a national interest.[[306]](#footnote-307) Interestingly, not only right-wing governmental officials but also Arab civil society organizations have adopted this instrumental language.[[307]](#footnote-308)

Second, while affirmative action measures today are legislated and systematic, they still have a limited effect on Arabs’ integration into the national workforce. In 2017, 49 percent of Arab men, compared with less than 20 percent of Jewish men, worked in blue collar, mostly manual labor jobs, such as those found in the agricultural and construction sectors. In addition, 74 percent of Arab women are not part of the official workforce, versus 34 percent of Jewish women. According to a 2014 study, around half of Jewish-owned businesses employ Arabs, and Arab workers constitute 23 percent of the workforce in these businesses. However, most businesses that employ Arabs in high rates (in the same or higher percentage of Arabs as there are in the population) are found mostly in the industrial, construction and trade fields.[[308]](#footnote-309) In contrast, only 2 percent of employees in high-tech companies and on academic faculties are Arab.[[309]](#footnote-310) Similarly, the Arab population is severely underrepresented in senior positions in the civil service and in decision-making positions in the public sector, at only 3.2 percent.[[310]](#footnote-311) Thus, while these measures are a marked improvement over the past, the data reveals that similar patterns of hierarchical inclusion have characterized the recent integration of Israel’s Arabs into the national workforce.

Contemporary affirmative action measures also include efforts to integrate Arabs into higher education. The share of Arab students in higher education has been disproportionate to their share in the population throughout Israel’s history. As the importance of higher education as a key for social mobility has grown, this under-representation has increasingly became an obstacle to Arabs’ integration into the job market.[[311]](#footnote-312) Yet only in the past few years has the government adopted systematic affirmative action measures to address this issue. In 2012, the Council of Higher Education established a comprehensive program to integrate Arab students into the higher education. This program was meant to help Arab high school students prepare for the Psychometric Entrance Test required for university admission and continues to assist students who go on to pursue a bachelor’s degree. The program does not include any kind of preferential treatment in admission decisions, but does provide a unique package of assistance to Arab candidates and students, including funded preparatory programs (*mechinot*), stipends, language and academic orientations, career counseling and preparation for the job market during their academic studies.[[312]](#footnote-313) Indeed, between 2010 and 2017, the number of Arab students in universities and colleges climbed by 78.5 percent—from approximately 26,000 students to about 47,000. In 2017 Arab students accounted for 16.1 percent of all students in bachelor’s degree programs, up from 10.2 percent in 2010. Furthermore, there representation in fields such as engineering and mathematics, in which they were scarcely represented before, increased.[[313]](#footnote-314) Arabs are still under-represented in higher education—in 2017, they constituted 21 percent of the population and 26 percent of the relevant age group[[314]](#footnote-315)—but exceptional and rapid progress was made in only seven years.

Given this Article’s finding that employment affirmative action is likely to be limited when adopted in the absence of efforts to integrate grade-school education, it is important to consider how the road not taken of educational integration might have affected these recent and more robust measures. Severe gaps between the Arab and Jewish educational systems persist in every aspect, from budgets that affect the quality of education to the number of graduates who are entitled to sit for the high school matriculation exams (46 percent of Arab students versus 72 percent of Jewish students).[[315]](#footnote-316) Furthermore, a 2017 study found that 29 percent of Arab children had low proficiency in Hebrew studies, and Only 25 percent of the students tested showed high levels of proficiency, with no improvement over the last 4 years.[[316]](#footnote-317) Given the deep disparities in education achievements and low levels of proficiency in Hebrew, and the long historical arc of the effort to equalize the two systems without integration, it seems very unlikely that separate but equal educational systems for Arabs and Jews will ever exist. The question that arises, then, is whether these new affirmative action efforts to integrate the Arab population into the higher education system can come close to compensating for the systemic inequality produced by the segregated educational system overall. There is no conclusive answer to this question. Higher education integration efforts like the ones employed today, which not only give preference in admissions, but also the resources to train, attract and help Arab high school students have the potential to achieve a great deal. However, as long as the overall segregation of Jewish and Arab schools remains undisturbed, history provides good reasons to think that these efforts will eventually hit a glass ceiling.

# Concluding Remarks

Current structures and systems are inevitably rooted in the past. As Robert Gordon has suggested, “[t]he ever-present implication of critical history is the contingency of present legal arrangements.”[[317]](#footnote-318) This Article takes this approach with respect to affirmative action in Israel’s founding decades, making two key arguments. First, this historical account shows how affirmative action did not have then, nor does it have today, a fixed meaning. Instead, it is charged with meaning by the different motivations and justifications used to promote it in different contexts. Second, by tracing the road not taken of educational integration, this Article shows that affirmative action used as only an isolated employment or higher education intervention is likely to achieve, at best, hierarchical inclusion. To achieve a more equal inclusion that allows for social mobility, it must also target the full educational system. Even if educational integration is not a plausible option, however, it is important to consider the way in which policies in this sphere interact with those aimed at higher education and employment integration.

Educational segregation has, indeed, proven to be persistent and intractable—and in some places, such as in Israel, also ideologically desired. However, the alternative trajectory this Article uncovered reminds us that educational segregation is not all-or-nothing. It can be promoted in some hours, in some schools, in some cities, and not in others. While compulsory educational integration seems especially unimaginable in the Israeli context, resources—both from the state and civil society—can be directed to incentivize voluntary educational integration, not just employment inclusion. Eventually, positive experiences with educational integration might gradually crack the strong ethos of educational separation that has dominated Israel over the past sixty years. A recent study that shows how very minimal yet increasing numbers of Arab students are choosing to study in Hebrew schools in mixed cities suggests that such change might already be starting.[[318]](#footnote-319)

1. \* J.S.D. Candidate, Yale Law School. I am deeply grateful to Reva Siegel for countless conversations, insightful feedback and guidance. For helpful comments and feedback on earlier drafts of the text and for their advice, I thank Gilad Abiri, Netta Barak-Corren, Daphne Barak-Erez, Leora Bilsky, Yishai Blank, Jacqueline Briggs, Natalie Davidson, Noam Finger, Owen Fiss, Robert Gordon, Udi Karklinsky, Andrea S. Katz, Roy Kreitner, Assaf Likhovski, Daniel Markovitz, Samuel Moyn, Robert Post, Judith Resnik, Clare Ryan, Hila Shamir and Oren Tamir. This Article also benefited greatly from comments and suggestions made by participants in The American Society for Legal History Annual Meeting, Student Research Colloquium (Las Vegas), the Brown Legal Studies Conference, the Stanford Program in Law and Society’s Fifth Conference for Junior Researchers, and the Yale Law School Doctoral Colloquium. I also thank Amnon Be'eri-Sulitzeanu, Co-Executive Director at The Abraham Fund, for providing invaluable insights on the efforts and challenges to promoting the equality of Arab citizens in Israel today. Financial assistance was provided by Yale Law School’s Streicker Fund. [↑](#footnote-ref-2)
2. Like everything else concerning the Israel-Palestine conflict, the terms used to describe the Arabic-speaking population of Israel (as opposed to Palestinian residents of the occupied territories) are contested and up for debate. While today, the term Palestinian-Arabs is often used, in this Article I will use the terms Arabs, Arab population, or Arab minority for consistency with the terms used in the historical sources this Article reviews. I use the term “Israeli-Arabs” only when I directly cite sources that use this term. [↑](#footnote-ref-3)
3. *See infra* notes \_\_\_. [↑](#footnote-ref-4)
4. *See infra* notes \_\_\_. [↑](#footnote-ref-5)
5. *See infra* notes \_\_\_. [↑](#footnote-ref-6)
6. Lit review of aa – refer to the last part and footnotes [↑](#footnote-ref-7)
7. References for this familiar context. Skretny and unsettling this tradition somewhat [↑](#footnote-ref-8)
8. I reviewed materials from four archives: Israel’s State Archives (hereinafter: ISA), the Knesset Archive, the Labor Movement Archive (hereinafter: LMA) and the Jewish Press Historical Collection. The study was conducted using relevant keywords, as well as the names of specific agencies and actors. In the process, I also found documents that reveal that this understudied history of Israel’s affirmative action was not limited only to the Arab minority, but also included affirmative initiatives geared towards Mizrahi Jews and (Jewish) women. These two latter histories are of immense importance and are naturally connected to the policy regarding the Arab minority, yet they are beyond the scope of This Article and will be addressed in future projects. [↑](#footnote-ref-9)
9. *See* Yitzhak Zamir, *Equal Rights of Arabs in Israel*, 9 L. & Gov’t 10, 31-34 (2006) (dating the beginning of affirmative action for the Arab minority to 2000 and the legislation of appropriate representation requirements); *see also* Affirmative Action and Equal Representation in Israel (Anat Maor ed., 2004) [Hebrew]; Amnon Rubinstein & Barak Medina, The Constitutional Law of the State of Israel 435-63 (6th ed., 2005) [Hebrew] (reviewing Israel’s aspiration to facilitate the representation of the Arab minority in 1948, including the Israeli Proclamation of Independence’s appeal to Arab inhabitants to participate in government with “due representation in all its provisional and permanent institutions,” and explaining that these commitments were not fulfilled, and that arrangements to increase the representation of the Arab population were made in the early 2000s); *On Affirmative Action*, 3 L. & Gov’t 145, 149 (1995) [Hebrew]. Other scholars trace the origins of affirmative action in Israel to HCJ 528/88 Avitan v. Israel Lands Council, 43(4) PD 297 (1989) (Isr.) (the petitioner challenged a policy that gave preferential treatment in land acquisition in a specific area to the Bedouin population. The Court rejected the petition on the grounds that the policy was not wrongful discrimination, but rather aimed at fulfilling the ideal of substantial equality. The Court did not explicitly acknowledge the principle of affirmative action, but did support its rationales). *See, e.g.,* Eyal Benvenisti, *“Separate but Equal” in the Allocation of State Lands for Housing*, 21 Iyunei Mishpat (Tel-Aviv U. Law Rev., in Hebrew) 769 (1997). [↑](#footnote-ref-10)
10. *See* Government Corporations Law (Amendment no. 6) (Appointments), 5753-1993, SH 1417, 92 (Isr.). For the litigation that followed and enforced it, see HCJ 453/94 Israel Women’s Network v. Government of Israel 48(5) PD 501 (1994) (Isr.). This amendment is widely considered as the Knesset’s first enacted affirmative action policy. *See also* Hagar Tzameret-Kertcher, *The Gender Index: Gender Inequality in Israel*, Ctr. for the Advancement of Women in the Public Sphere (WIPS) (2014); Ruth Halperin-Kaddari, Women in Israel: A State of Their Own 29 (2004). For similar requirements in the civil service arena, see Civil Service Law (Appointments), 5719-1959, SH No. 279, p. 86 ss. 15A (Isr.). In 2000, the Knesset amended the Government Corporations Act once again, this time to include a requirement of appropriate representation of Arabs on the boards of governmental corporations. That same year, the Knesset also amended the Civil Service Law (Appointments) to include a requirement for appropriate representation in civil service appointments, in all levels of employment in all public offices, of the Arab population and of people with disabilities. *See* Government Corporations Law, 5735-1975, SH No. 730, p. 132 s. 18A1 (Isr.); Civil Service Law (Appointments), 5719-1959, SH No. 279, p. 86 ss. 15A(b) (Isr.). [↑](#footnote-ref-11)
11. Refer to the ones which were described in the lit review. The 5-year plans [↑](#footnote-ref-12)
12. *See infra* notes accompanying Part I, and specifically *infra* notes 32-**Error! Bookmark not defined.**. [↑](#footnote-ref-13)
13. See infra notes \_\_\_ and notes accompanying. [↑](#footnote-ref-14)
14. *See infra* Section II.A. [↑](#footnote-ref-15)
15. *See infra* Section II.Aii. [↑](#footnote-ref-16)
16. *See infra* Section II.B. [↑](#footnote-ref-17)
17. See infra note \_\_ [↑](#footnote-ref-18)
18. Richard Thompson Ford, *Did the Supreme Court Just Admit Affirmative Action is About Racial Justice?*,Vox (July 5, 2016), http://www.vox.com/2016/7/5/12085412/-supreme-court-affirmative-action-decision-racial-justice-fisher-abigail-diversity (stating that “affirmative action is one of the nation’s few proactive responses to racial inequity”); *see also infra* notes\_\_. [↑](#footnote-ref-19)
19. *See infra* notes \_\_. [↑](#footnote-ref-20)
20. For the most comprehensive account of this interaction, and especially the part the law takes in producing it, see Yishai Blank, Brown *in Jerusalem: A Comparative Look on Race and Ethnicity in Public Schools*, 38 Urban Law.367 (Summer 2006). See also [↑](#footnote-ref-21)
21. For example, see Khaled Abu-Asbah, *The Arab Education in Israel Dilemmas of a National Minority*, the Floersheimer Institute for Policy Studies 144 (2007) ("Palestinian Arabs in Israel are not interested in full integration because they fear the lost of their identity and language, yet they are interested in full civil equality, including educational equality..."). See also infra note 151-52 and accompanying text. [↑](#footnote-ref-22)
22. This is in opposition to the Internal-Jewish educational segregation between Mizrahi and Ashkenazi Jews that had been fought against since 1968. [↑](#footnote-ref-23)
23. Of course, residential segregation also directly limits employment opportunities and more relevantly affirmative action measures for promoting workforce integration, which are beyond the scope of this article and should be further studied. [↑](#footnote-ref-24)
24. See infrat notes [↑](#footnote-ref-25)
25. Hillel Cohen, The Present Absentee: Palestinian Refugees in Israel Since 1948, at 7, 21-25 (2000). [↑](#footnote-ref-26)
26. *See* Office of the Prime Minister’s Advisor on Arab Affairs, A Report on the Israeli Arabs in the First Five Years 3 (1953) (ISA-13925/19-GL) [hereinafter First Five Years Report]; Benny Morris, The Birth of the Palestinian Refugee Problem, 199-201 (1987). [↑](#footnote-ref-27)
27. For an account of the military regime, see Sarah Ozacky-Lazar, *The Military Government as a Mechanism of Controlling Arab Citizens: The First Decade, 1948–1958*, 43 Hamizrah Hehadash 103 (2002) [hereinafter Ozacky-Lazar, *The Military Government as a Mechanism of Controlling Arab Citizens*]. [↑](#footnote-ref-28)
28. Ian Lustick, Arabs in the Jewish State: Israel’s Control of a National Minority 66 (1980) (citing Yigal Alon, 1959). [↑](#footnote-ref-29)
29. Movement outside these areas was controlled by a system of travel permits. The movement restrictions naturally limited the Arab population’s ability to participate in the labor market. *See* Alina Korn, *Military Government, Political Control and Crime: The Case of Israeli Arabs*, 34 Crime L. & Soc. Change159 (2000). The military rule was legally based on enclosure orders issued under Regulation 125 of the Defense Regulations (State of Emergency) 1945, which are “leftover” regulations from the British Mandate for Palestine. For a comprehensive account of the repudiation of the military regime, see Yair Bäuml, *The Military Regime and the Process of Its Abolishment, 1958–1968*, 43 New East 103 (2002) [Hebrew]. Military governors were allowed to impose exile or arrest arbitrarily. *See* Michael Kagan, *Destructive Ambiguity: Enemy Nationals and the Legal Enabling of Ethnic Conflict in the Middle East*, 38 Colum. Hum. Rts. L. Rev. 263 (2006). [↑](#footnote-ref-30)
30. Yoram Ben-Porath, The Arab Economy 55 (1966). [↑](#footnote-ref-31)
31. *See* Oren Yiftachel, Ethnocracy: Land and identity politics in Israel/Palestine, 131- (2006); Alexander Kedar and Oren Yiftachel, *Property and Power: Israeli Land Regime*, *in* After the Break: New Directions for the Government Policy towards the Arabs in Israel (Dany Rabinovitch et al. eds., 2000); Alexandre (Sandy) Kedar, *The Jewish State and the Arab Possessor, 1948–1967*, *in* The History of Law in a Multi-Cultural Society: Israel 1917–1967 (Ron Harris et al. eds., 2002). [↑](#footnote-ref-32)
32. For an extensive account of Israel’s exclusionary laws of citizenship, see Shira Robinson, Citizen Strangers: Palestinians and the Birth of Israel’s Liberal Settler State (2013). [↑](#footnote-ref-33)
33. For a description of budgetary discrimination, see David Kretzmer, The Legal Status of the Arabs in Israel (1990), 107. *See generally* Sammy Smooha, *Existing and Alternative Policy Towards the Arabs in Israel*, 5 Ethnic & Racial Stud. 71 (1982). [↑](#footnote-ref-34)
34. *See, e.g.*, Sarah Ozacky-Lazar, The Formation of the Reciprocal Relations between Jews and Arabs in the State of Israel, the First Decade 1948–1958 (unpublished Ph.D. dissertation, Haifa University). Elie Rekhess argues that while there were two opposing approaches toward the Arabs, the government actually adopted a middle-ground attitude that compromised between these two approaches. *See* Elie Rekhess, *Initial Israeli Policy Guidelines Towards the Arab Minority, 1948–1949*, *in* New Perspectives on Israeli History (Laurence J. Silberstein ed., 1991) (outlining an ambivalent relationship that “moved forth and back between two opposite poles. On the one hand a liberal, democratic and moral approach, and on the other a security-oriented approach.”). *See generally* The Declaration of the Establishment of the State of Israel (1948) (in paragraph 4, the Declaration emphasizes the right of the Jewish people to “rebuild [their] national home” in Israel and the “right of the Jewish people to establish their State,” and in paragraph 12 it declares that Israel “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”). *See also* Aluf Hareven, One Look Back and One Forward: Is it Really Equal and Full Citizenship? (1998) [Hebrew] (“From the instatement of Israel, it has held a tension between two elements: between its definition as the state of the Jewish nation and its definition as a democratic state. The most problematic issue arising from this tension is the status and living conditions of the Arab citizens of Israel and their relationship, as a minority, with the state.”). For examples emphasizing Israel’s liberal commitments, see, for example, Alisa Rubin Peled, *The Other Side of 1948: The Forgotten Benevolence of Bechor-Shalom Sheetrit and the Ministry of Minority Affairs*, 8 Israel Aff. 84, 85 (2002). [↑](#footnote-ref-35)
35. *See, e.g.*, *supra* notes 18-23. For a review of the different trends in this historiographical debate, see Assaf Likhovski, *Post-Post-Zionist Historiography*, 15 Israel Stud. 1 (2010); and Arik Rudnitzky, *The Contemporary Historiographical Debate in Israel on Government Policies on Arabs in Israel During the Military Administration Period (1948–1966)*, 19 Israel Stud. 24 (2013). [↑](#footnote-ref-36)
36. *See* Robinson, *supra* note 27, at 198(“Israel’s essential Paradox has pivoted around its attempt to pursue the Jewish conquest of land and labor while extending individual political rights to the Arabs of Palestine who remained after 1948—to bind voting Palestinians to the state while simultaneously denying them access to it.”); Gershon Shafir & Yoav Peled, Being Israeli: The Dynamics of Multiple Citizenship, 110-36 (2002). [↑](#footnote-ref-37)
37. The founder of this line of questioning is Ian Lustick. *See* Ian Lustick, *Stability in Deeply Divided Societies: Consociationalism versus Control*, 31 World Pol. 325 (1979). [↑](#footnote-ref-38)
38. Robinson, *supra* note 27, at 3. [↑](#footnote-ref-39)
39. *Id.* [↑](#footnote-ref-40)
40. Hillel Cohen, Good Arabs: The Israeli Security Agencies and the Israeli Arabs, 1948–1967(2011). [↑](#footnote-ref-41)
41. Yair Bäuml, A Blue and White Shadow: The Israeli Establishment’s Policy and Actions Among its Arab Citizens: The Formative Years, 1958­–1968, at 313 (2007) [Hebrew] [hereinafter Bäuml, A Blue and White Shadow]; *see also* Yair Bäuml, *The Discrimination Policy Toward the Arabs in Israel, 1948–1968*, 16 Iyunim Bitkumat Israel 391 (2006) [Hebrew]; Yair Bäuml, *The Subjugation of the Arab Economy in Israel to the Jewish Sector, 1958–1967*, 48 Hamizrach Hehadash 101 (2009) [Hebrew] [hereinafter Bäuml, *The Subjugation of the Arab Economy*]. [↑](#footnote-ref-42)
42. *See* Lustick, *supra* note 32. [↑](#footnote-ref-43)
43. Ilan Saban, *Theorizing and Tracing the Legal Dimensions of a Control Framework: Law and the Arab-Palestinian Minority in Israel’s First Three Decades (1948-1978)*, 25 Emory Int’l L. Rev. 299, 301 (2011) (describing how the majoritarian system, the weakness of individual rights, the High Court of Israel at the time, and other parts of the legal system took part in sustaining the control framework at the time). [↑](#footnote-ref-44)
44. *See* Rudnitzky, supra note 30, at 39 (recognizing this methodological turn as one of the characteristics of the third wave in Israel’s historiography). [↑](#footnote-ref-45)
45. *See* Lustick, *supra* note 23, at 191 (briefly describing the five-year policy plans, yet dismissing them by pointing to the different ways in which the Arab sector “still” lags behind, and explaining that they did not come close to modernizing the Arab sector); Bäuml, *The Subjugation of the Arab Economy*, *supra* note 37 (describing the five-year plans, and concluding that they “were planned to and in effect promoted the material modernization of the Arab sector by enhancing the consumption of products they purchased in Jewish market. Like that, the fortune accumulated by the Arab minority by working in the Jewish sector went back to the Jewish sector”); Rudnitzky, *supra* note 30, at 36 (noting with respect to Bäuml that “it is difficult to shake off the impression that he would judge any government action involving the Arab population as discrimination against Arabs, even if the action reflected consideration of this population’s special status or needs”). [↑](#footnote-ref-46)
46. *See* *infra* note 213 and accompanying text. [↑](#footnote-ref-47)
47. This is similar to early affirmative action efforts in the United States. *See infra* notes \_\_ and accompanying text. [↑](#footnote-ref-48)
48. Nir Kedar, *A Civilian Commander in Chief: Ben-Gurion’s Mamlakhtiyut, the Army and the Law*, 14 IsraelAff. 202, 211-14 (2008). [↑](#footnote-ref-49)
49. The Declaration of the Establishment of the State of Israel, 1 Official Gazette 5708-1948, paras. 4, 8 (1948) [↑](#footnote-ref-50)
50. Lustick, *supra* note 23, at 78. [↑](#footnote-ref-51)
51. Morris, *supra* note 21, at 39-61, 597 (1989). [↑](#footnote-ref-52)
52. Nadim N. Rouhana & Areej Sabbagh-Khoury, *Memory and the Return of History in a Settler-Colonial Context: The Case of the Palestinians in Israel*, *in* Israel and its Palestinian Citizens: Ethnic Privileges in the Jewish State 400 (Nadim N. Rouhana ed., 2017) (“[T]he history so central to their colonized reality was, until recently, silenced from the official public and political discourse among the Palestinians in Israel.”). [↑](#footnote-ref-53)
53. The Arabs in Israel, Office of the Prime Minister’s Advisor on Arab Affairs 8 (Jan. 1952) (ISA-13970/22-GL) [hereinafter The Arabs in Israel]. [↑](#footnote-ref-54)
54. *Id.* at 9. [↑](#footnote-ref-55)
55. *Id.* at 10 (“Apart from the general assistance accorded by the Government to all farmers in Israel. . . the Ministry of Agriculture granted special loans to Arab farmers without guarantee, to enable them to replenish their stock and accelerate the transition to more instant farming.”). [↑](#footnote-ref-56)
56. *Id.* at 11. [↑](#footnote-ref-57)
57. *Id.* at 12. [↑](#footnote-ref-58)
58. A General Review of the Minority Office, its Organization, Mission and Actions 41 (Dec. 20, 1948) (ISA-307/37-G). Sheetrit considered his appointment as an opportunity to build bridges between the Arab minority and the institutions of the young state. It was his task, he believed, to bring the Jewish population to adopt a “fair and equal” approach toward the Arabs and promoting the restoration of normal life. *See also* Bechor-Shalom Sheetrit, Memorandum (Feb. 27, 1949). For a short survey of the ministry, see Rekhess, *supra* note 29. [↑](#footnote-ref-59)
59. *The Minorities Ministry is Working to Promise Equal Rights*, Al HaMishmar, Nov. 10, 1948. [↑](#footnote-ref-60)
60. *The Ministry of Minorities Affairs is Organizing the Life of the Arabs*, Al HaMishmar, July 20, 1948. [↑](#footnote-ref-61)
61. *See also* Rubin Peled*, supra* note 29 (focusing mostly on the Ministry’s policies for promoting religious autonomy and addressing different Islamic affairs). [↑](#footnote-ref-62)
62. A General Review of the Minority Office, its Organization, Mission and Actions, *supra* note 54, at 44. [↑](#footnote-ref-63)
63. For a survey of the ministry’s activities in the Arab sector, see Report of the Ministry (Sept. 29, 1949) (ISA-307/37-G). [↑](#footnote-ref-64)
64. The Activities of the Ministry of Minorities Affairs in Jaffa, Hazufe (Sept. 14, 1948) (ISA-307/37-G). [↑](#footnote-ref-65)
65. The Government Yearly Report (Shnaton Hamemshala) of 1950, at 118-19. [↑](#footnote-ref-66)
66. *Id*. [↑](#footnote-ref-67)
67. *Unemployment of Workers in Jaffa was Minimized*, Al HaMishmar, Sept. 14, 1948. [↑](#footnote-ref-68)
68. Letter from the Minorities Ministry to the Ministry of Interior (Sept. 26, 1948) (ISA-309/60-G). [↑](#footnote-ref-69)
69. For an account of the demise of the office of minority affairs, see Rubin Peled, *supra* note 29, at 95. [↑](#footnote-ref-70)
70. Coalition Protocols 1949–Sephardim 6 (Mar. 2, 1949) (Ben Gurion Archives, 1602093). [↑](#footnote-ref-71)
71. Uzi Benziman & Atallah Mansour, Subtenants: The Arabs of Israel, Their Statues and the Policy Toward Them 61 (1992) (suggesting that the dissolution of the Office of Minority Affairs marked the “security considerations’ victory over the liberal considerations”). [↑](#footnote-ref-72)
72. Yoram Ben-Porath, The Arab Economy 55 (1966). [↑](#footnote-ref-73)
73. Nachum Gross, *Israel’s Economy*, *in* The First Decade: 1948–1958, at 137, 147-50 (Zvi Zameret & Hanna Yablonka eds., 1998) [Hebrew]. [↑](#footnote-ref-74)
74. *See* Esther Alexander*, The Economics of Absorbing the Great Aliya*, 2 Iyunim Bitkumat Israel 79 (1992). [↑](#footnote-ref-75)
75. Arie Krampf, The National Origins of the Market Economy 22-23 (2014). [↑](#footnote-ref-76)
76. *Id.* [↑](#footnote-ref-77)
77. Shoshana Maryoma-Marom, Relief Work as a Component of Social-Employment Policy in Israel in the 1950s and 1960s (2007) (unpublished Ph.D. dissertation). [↑](#footnote-ref-78)
78. *See* *infra* notes \_\_\_ and accompanying text. [↑](#footnote-ref-79)
79. Minorities’ Economy, Employment and Unemployment in Nazareth 73 (Jan. 20, 1949) (ISA-2402/22). [↑](#footnote-ref-80)
80. I. Kretzer, Ministry of Labor, Dep’t of the Arab Village, Operations of the Ministry of Labor in the Arab Sector, (July 5, 1951) (ISA-2402/02-mfa) (also committing to equal pay). [↑](#footnote-ref-81)
81. *See* Allowancing Days of Work for the Minority Population in Arab Employment )Dec. 8, 1948) (ISA-6168/19); *id*. at 67 (listing the governmental budgets allocated for employing Arabs in different public works projects); *see also* *Employing Arab Construction and Port Workers*, HaMashkif, Dec. 9, 1948 (reporting on the government sending 200 Arab workers to work in Jaffa); *500 Arab Laborers to Lod – to Fruit Picking* (reporting on the government employing 500 Arab workers for the season and arranging living accommodations for them). [↑](#footnote-ref-82)
82. *See* Maryoma-Marom, *supra* note 73. [↑](#footnote-ref-83)
83. DK (1951) 870, 872 (Isr.) (as evidence for her claims, she pointed to the fact that both in Nazareth and Jaffa, the unemployment of Arabs was minimal). [↑](#footnote-ref-84)
84. Kretzer, *supra* note 76. [↑](#footnote-ref-85)
85. *Id*. [↑](#footnote-ref-86)
86. *Id*. See also efforts to reinstate former clerks who had previously served under the British Mandate for Palestine. See the appointment of non-Jewish former clerks to governmental positions (March 27, 1950), in Arabs’ Employment in different Occupations (ISA-61393/13), 12. Following a ruling of the High Court of Justice regarding the reinstatement of Jewish officers, the Attorney General of Israel determined that the Israeli government must employ former government clerks. HCJ 22/48. [↑](#footnote-ref-87)
87. *Id.* at 2. [↑](#footnote-ref-88)
88. *Id.* at 1; *see also* Employment and Unemployment in Nazareth (Jan. 20, 1949) (ISA-2402/22). [↑](#footnote-ref-89)
89. *See, e.g.*, *A Promise to Promote the Integration of Arab Students to Work in Governmental Offices*, Al HaMishmar, Aug. 25, 1955. [↑](#footnote-ref-90)
90. *The Ministry of Labor Assisting Arab Students*, Davar, Dec. 1, 1955. [↑](#footnote-ref-91)
91. Yitzhak Ben-Zvi, Speech at Mapai Meeting 4 (July 9, 1950). [↑](#footnote-ref-92)
92. *See* Bäuml, A Blue and White Shadow, *supra* note 37, at 136-38. [↑](#footnote-ref-93)
93. *See* First Five Years Report, *supra* note 21, at 17. [↑](#footnote-ref-94)
94. *Id.* at 9-10. [↑](#footnote-ref-95)
95. Transcript of Cabinet Meeting 40-41 (Nov. 15, 1953). [↑](#footnote-ref-96)
96. *See* The Arabs in Israel, *supra* note 49. [↑](#footnote-ref-97)
97. *See* Bäuml, A Blue and White Shadow, *supra* note 37, at 14. [↑](#footnote-ref-98)
98. See Ozacky-Lazar, *The Military Government as a Mechanism of Controlling Arab Citizens*, *supra* note 22. [↑](#footnote-ref-99)
99. Yair Aharoni, *Structure and Conduct in Israeli Industry*, Tel-Aviv: The Israel Institute of Business Research and Gomeh Publications, 392, 361(1975) [↑](#footnote-ref-100)
100. The Committee’s first chair was Mordechai Namir, who was the Minister of Labor, and its second and last chair, from 1960 to 1968, was Abba Hushi, who was the mayor of Haifa. [↑](#footnote-ref-101)
101. *See* *supra* note 48. [↑](#footnote-ref-102)
102. Mapai Comm. for Arab Affairs, Protocol 5-10 (Jan. 30, 1958))LMA-27-1957-213). [↑](#footnote-ref-103)
103. *Id*. [↑](#footnote-ref-104)
104. Mapai Action Plan for the Arab Population (1960) (incorporating the examples from other plans with less radical versions of this goal). In a 1959 action plan, the Advisor for Arab Affairs said any future policy toward the Arab sector must be focused on “development and integration to the state’s life.” *See* Office of the Prime Minister’s Advisor on Arab Affairs, Recommendations re: the Arab Minority in Israel (Sept. 1959) [hereinafter Recommendations re: the Arab Minority]. [↑](#footnote-ref-105)
105. *See* *infra* Section II.B. [↑](#footnote-ref-106)
106. MAPAI Committee for Arab Affairs, Protocol, 5-10. (Jan. 30th, 1958). [↑](#footnote-ref-107)
107. *Id.* at 18-2; *see also* Mapai Action Plan for the Arab Population, *supra* note 101, at 22 (stating that joint corporations and enterprises for Arabs and Jews should be established, and that all existing organizations and institutions should be open to Arabs). [↑](#footnote-ref-108)
108. Comm. for Problems of Employment and Professional Training of Arab Youth, Report 5 (1960). [↑](#footnote-ref-109)
109. Conclusions of The Labor Comm. on Unemployment in the Arab Sector (1968) (ISA-17021/12-GL), app. [↑](#footnote-ref-110)
110. *See, e.g.*, Letter 23 (Nov. 20, 1962) (ISA-61357/12) (asking to designate workfare positions for minorities); Report by the Arab Department in the Labor Office 32, 38 (Sept. 1961) (ISA-61357/12) (on employing the unemployed); Knesset Protocol 3 (Apr. 3, 1967) (reporting that there are almost 3,000 young Arabs working through the workfare system); Labor Committee Protocol (Mar. 8, 1967) (ISA-17021/13-GL) (explaining that 16,000 work days are provided through public works projects, of which over 2,500 are designated to Arab villages and more days are distributed to Arabs in the cities). [↑](#footnote-ref-111)
111. Office of the Prime Minister, Unemployment in the Arab Sector 3 (Aug. 21st, 1966) (ISA-17021/13-GL). [↑](#footnote-ref-112)
112. *See, e.g.*, Report by the Arab Department in the Labor Office, *supra* note 107, at 32 (discussing opening a training class for sewing); Knesset Labor Comm., Protocol No. 91 (Mar. 8, 1967) (ISA-17021/13-GL) (“A couple of words on professional training. From 1955 until today [1967], eleven classes graduated from course for carpentry, framing, electricity. Three hundred people took these classes. Two hundred and fifty more are taking classes in mechanics.”). [↑](#footnote-ref-113)
113. See DK August 7th 1963 at 2646. [↑](#footnote-ref-114)
114. Office of the Prime Minister, *supra* note 108, at 1 (reporting, according to an Aug. 6th, 1966 survey, that the unemployment rate at the Arab sector was 7%, while at the Jewish sector it was 4.5%). [↑](#footnote-ref-115)
115. The Plan for Industrializing Arab Areas 120 (ISA-13963/19) (discussing how a carpet factory committed to opening a new branch in Nazareth, employing at least 100 Arab workers). [↑](#footnote-ref-116)
116. *Id*. [↑](#footnote-ref-117)
117. *See* Labor Committee Protocol, *supra* note 107, at 91, app. Another report specified the numbers of Arabs who were employed in Jewish-owned business, noting, for example, that there were 6,500 breadwinners in Nazareth, of whom 408 worked for the state. Many others worked in neighboring municipalities. For instance, the Voltex factory in Afola employed thirty-seven Arab women from Nazareth, the kibbutzim employed around 100 Arab workers, and in Haifa there were an additional 1,750 Arab workers. [↑](#footnote-ref-118)
118. Report to the Minister of Labor, Reconsiderations for Increasing Employment Rates in Arab Villages by Establishing Factories (Jan. 5, 1967) (ISA-13963/19-GL). [↑](#footnote-ref-119)
119. Sarah Ozacky-Lazar, *From a Hebrew Trade Union to an Israeli Trade Union: The Integration of Arabs in the Histadrut, 1948–1966*, *in* Studies in Israel's Revival 10 (2000) [hereinafter Ozacky-Lazar, *From a Hebrew Trade Union to an Israeli Trade Union*]. [↑](#footnote-ref-120)
120. *Id.* [↑](#footnote-ref-121)
121. *Namir’s Speech in the Va'ad HaPuel General Assembly (May 7, 1953)*, *in* The Histadrut and the Arab Worker (1953), 20. [↑](#footnote-ref-122)
122. *See* Ozacky-Lazar, *From a Hebrew Trade Union to an Israeli Trade Union*, *supra* note 117, at 404; *see also*, Arab Life in Israel (Apr. 1959) (ISA-2129-GL) (“Of the estimated 23,000 to 25,000 employed Arabs in Israel, about 13,000 so far have joined Histadrut trade unions. The decision on full membership climaxes a process of integration which has raised the living standard of all of Israel's Arab citizens.”). [↑](#footnote-ref-123)
123. Dep’t of Arab Worker Affairs, A Collection of Reports, The Histadrut 1 (Nov. 1954) (ISA-17098-21-GL) (“[W]ith the decision to open the gates of the professional organizations to the Arab worker, the Arab department was charged with the mission to enhance its efforts to promote cooperation and integration.”); Meir Reuveni, They are Growing out their Minority Complex, LaNerhav (Jan. 31, 2018) (ISA-2264/7-G) (reporting on the different actions taken by the Arab Department of the Histadrut with respect to organizing and recruiting Arab workers in Haifa). [↑](#footnote-ref-124)
124. Arab Life in Israel, *supra* note 119, at 2 (“Through the years, the Histadrut, with Government counterargument and support, has been active in finding employment for Arabs and guaranteeing them fair wages and decent conditions of labour.”); see also Ozacky-Lazar, *From a Hebrew Trade Union to an Israeli Trade Union*, *supra* note 117, at 392. [↑](#footnote-ref-125)
125. Sharif Mamlok, The 9th Histadrut Council, The Histadrut 42-43 (Spring 1960); *see also* The Arab Department of the Histadrut, (Dec. 20, 1961) (LMA). [↑](#footnote-ref-126)
126. The 10th Histadrut Council, The Histadrut 637 (Jan. 1966) (LMA). [↑](#footnote-ref-127)
127. A Review on the Non-Jewish Civil Servants 30-34 (Sept. 9, 1957) (ISA-47242/3). [↑](#footnote-ref-128)
128. Mapai Comm. for Arab Affairs 8 (Jan. 1, 1958) (LMA-27-1957-213). [↑](#footnote-ref-129)
129. *Jobs for the Intelligentsia Among the Minorities*, Ha’aretz, Mar. 3rd, 1958. [↑](#footnote-ref-130)
130. Offices will Designed Jobs to Educated Arabs, Ma'ariv (Jan. 10th, 1962) [↑](#footnote-ref-131)
131. *25 Educated Arabs and Druze to be Hired by the Ministry of Finance*, Davar, June 26, 1961, at 3. [↑](#footnote-ref-132)
132. Ministry of Labor, Monthly Report: The Ministry’s Actions Regarding Minority Issues 2 (Aug. 1961) (ISA-61357/12-GL); Monthly Report: The Ministry’s Actions Regarding Minority Issues, The Ministry of Labor 2 (Sep. 1961)(ISA-61357/12-GL). [↑](#footnote-ref-133)
133. Letter from Moshe Piamenta to the Advisor for Arab Affairs (June 28, 1959) (ISA-17036./19-GL); *see* *also Educated Arabs to be Integrated in the Public Sector*, Davar, Dec. 1, 1966 (“Tens of educated Arabs and Druze from minority villages . . . will soon be integrated to governmental offices and the Histadrut in the north.”). [↑](#footnote-ref-134)
134. Letter to the Advisor of Arab Affairs from Nisim Tokoly, The Employment of Educated Arabs and the Civil Service Exams (May 2, 1967). [↑](#footnote-ref-135)
135. Mapai Action Plan for the Arab Population 2 (May 15, 1961) (LMA-27-1960-116). [↑](#footnote-ref-136)
136. *An Action to Attain Employment for Educated Arabs*, LaMerhav, Mar. 14, 1963. [↑](#footnote-ref-137)
137. DK (1959) 1932, 1936 (Isr.). [↑](#footnote-ref-138)
138. Letter from the Office of the Advisor of Arab Affairs to the Office of the Prime Minister (June 29, 1964) (ISA-17036/20-GL). [↑](#footnote-ref-139)
139. Civil Service Comm’n, A Survey of the Non-Jewish Civil Servants 2 (Aug. 9, 1957) (ISA-47424/3); *see also* the Advisor of Arab Affairs, A Survey on Educated Arabs for the Prime Minister’s Office (Oct. 13, 1964) (ISA-17036/20-GL); Ministry of Labor, Monthly Report of the Office for Arab Affairs, 1 (July 1961). [↑](#footnote-ref-140)
140. Civil Service Comm’n, *supra* note 136, at 2. [↑](#footnote-ref-141)
141. *Id*. [↑](#footnote-ref-142)
142. Office of the Advisor of Arab Affairs, Employment of Educated Arabs and the Civil Service Exams (May 2, 1967) (ISA-17036/20-GL). [↑](#footnote-ref-143)
143. Civil Service Comm’n, *supra* note 136, at 2. [↑](#footnote-ref-144)
144. *Id*. at 1. [↑](#footnote-ref-145)
145. *See* Bäuml, A Blue and White Shadow, *supra* note 37, at 302. [↑](#footnote-ref-146)
146. Yegal Losin, *73 Outraged Youngsters*, Maariv (June 20, 1959). [↑](#footnote-ref-147)
147. *Id*. [↑](#footnote-ref-148)
148. Letter from A. Oren, the Speaker of the Ministry of Education and Culture to Boneh Tirush (Jan. 8, 1965)(ISA-1404/6-GL). [↑](#footnote-ref-149)
149. Majid Al-Haj, Education, Empowerment, and Control: The Case of the Arabs in Israel 86-87 (2012). [↑](#footnote-ref-150)
150. In e-mail correspondence with Shlomit Amichai, former CEO of the Ministry of Education, it was confirmed that a “positive factor” was instated to favor Arab students. Email from Shlomit Amichai, former CEO of the Ministry of Education, to author (Aug. 17, 2018) (on file with author). [↑](#footnote-ref-151)
151. *See, e.g.*, Ministry of Foreign Affairs, Arab Life in Israel 3 (Apr. 1959) (ISA-47424/3-GL) (“[T]hree of the 12 Arab students now studying in the Technion . . . have been granted scholarships to enable them to continue their studies.”); *Stipends for Arab Students*, Davar, Jan. 31, 1967. [↑](#footnote-ref-152)
152. The Prime-Minister Offices, Arab and Druze Students in the University (May 10th, 1954)(ISA-1404/6-GL) (citing Levi Eshkol in a speech made in Oct. 21st, 1963). [↑](#footnote-ref-153)
153. Guy Lurie, *The Appointment of Arab Judges to Courts in Israel*, 16 L. & Gov’t 307 (2014). [↑](#footnote-ref-154)
154. *Id*. at 313. [↑](#footnote-ref-155)
155. Lustick, *supra* note 23, at 24. [↑](#footnote-ref-156)
156. Yishai Blank, Brown *in Jerusalem: A Comparative Look on Race and Ethnicity in Public Schools*, 38 Urban Law.367 (2006). [↑](#footnote-ref-157)
157. Comm. of Arab Affairs, The Party’s Policy Directions Toward the Arab Population 2 (May 27, 1960) (LMA-27-1960-116). [↑](#footnote-ref-158)
158. *Id*. at 1. [↑](#footnote-ref-159)
159. Committee for Arab Affairs, Transcript, 4 (Aug. 11, 1960) [↑](#footnote-ref-160)
160. *Id*. at 5. [↑](#footnote-ref-161)
161. *Id*. at 6-10. [↑](#footnote-ref-162)
162. Committee for Arab Affairs, Transcript, 2 (Feb. 1, 1962) [↑](#footnote-ref-163)
163. Committee for Drafting the Line of Policy Regarding the Education and Culture of Minorities Appointed by the Ministry of Education, Policy Report 2 (June, 30th 1958) (ISA-17015/10( [↑](#footnote-ref-164)
164. *Id.* at 2. [↑](#footnote-ref-165)
165. *Id*. at 10. [↑](#footnote-ref-166)
166. *See, e.g.*, Mapai Comm. for Arab Affairs, Protocol, *supra* note 99, at 5-10 (as part of the first five year plan, funds were allocated to Arab municipalities with the purpose of improving educational conditions, and Arab teachers were trained to provide better education for Arab children). [↑](#footnote-ref-167)
167. Education Under the Five-year Plan for the Minorities (1967-1971) (ISA-13963-19). [↑](#footnote-ref-168)
168. Yoel Dar, *A Five-Year Plan for Expending Arab Education was Approved*, Davar, Feb. 4, 1967. [↑](#footnote-ref-169)
169. *See infra* notes 205-210 and accompanying text. [↑](#footnote-ref-170)
170. Office of the Prime Minister’s Advisor for Arab Affairs, The Five-Year Plan for Development of the Arab and Druze Village 3 (1962) (ISA-13900-13-GL). [↑](#footnote-ref-171)
171. The Government Yearly Report (Shnaton Hamemshala) of 1968, at 53; *see also* The Arabs in Israel, *supra* note 49, at 11. [↑](#footnote-ref-172)
172. *See infra* note 204 and accompanying text. [↑](#footnote-ref-173)
173. *See, e.g.*, Letter from Habushi to the Military Ruler of Nazareth, The State of Israel (Feb. 22, 1950) (ISA-61393/13-GL). [↑](#footnote-ref-174)
174. Mapai Committee for Arab Affairs, Transcript 1-2 (Jan. 30, 1958)(LMA-27-1957-213). [↑](#footnote-ref-175)
175. *Id*. at 3. [↑](#footnote-ref-176)
176. *Id*. [↑](#footnote-ref-177)
177. *Id*. at 6. [↑](#footnote-ref-178)
178. Mapai Committee for Arab Affairs, Transcript 8 (Mar. 3, 1964) (147-1957-962-2). [↑](#footnote-ref-179)
179. *See* First Five Years Report, *supra* note 21, at 4. [↑](#footnote-ref-180)
180. Report by the Committee for Examining Ways of Integrating the Arab Population in the Economy and Labor Systems 5 (1960). [↑](#footnote-ref-181)
181. *Id*; *see also* Bäuml, *supra* note 37, at 41. [↑](#footnote-ref-182)
182. *See* Recommendations re: the Arab Minority in Israel, *supra* note 101. [↑](#footnote-ref-183)
183. *See, e.g.*, Office of the Prime Minister’s Advisor for Arab Affairs, Unemployment in Nazareth and the Area (Mar. 3, 1967) (ISA-17021/12-GL). [↑](#footnote-ref-184)
184. *See also* Bäuml, *supra* note 37, at 121. [↑](#footnote-ref-185)
185. A. Agasy, *Steps in the Way (Shlavim Ba’Derech)*, *in* The Histadrut and the Arab Worker 3-4 (1953). [↑](#footnote-ref-186)
186. Report by the Committee for Examining Ways of Integrating the Arab Population, *supra* note 177. [↑](#footnote-ref-187)
187. Mapai’s Committee for Arab Affairs, Transcript, *supra* note 171. [↑](#footnote-ref-188)
188. *See* Recommendations re: the Arab Minority in Israel, *supra* note 101, at 6 (“The State’s policy in the past ten years was to promote the separation and balkanization of the Arab population to it’s sub-communities and areas and to consolidate their interests around these divisions”); *see also* Robinson, *supra* note 27, at 56; Lustick, *supra* note 23, at 98. [↑](#footnote-ref-189)
189. *See* Lustick, *supra* note 23, at 82-150 (identifying this line of policy as segmentation). [↑](#footnote-ref-190)
190. First Five Years Report, *supra* note 21. [↑](#footnote-ref-191)
191. *See* Lustick, *supra* note 23, at 82-150. [↑](#footnote-ref-192)
192. *See, e.g.*, Mapai Committee for Arab Affairs, Policy Memo 3 (Mar. 30, 1958); *see also* The Five Years Plan, *supra* *note* 143. [↑](#footnote-ref-193)
193. *See generally* Bäuml, A Blue and White Shadow, *supra* note 37, at 133. [↑](#footnote-ref-194)
194. Recommendations re: the Arab Minority in Israel, *supra* note 101, at 18. [↑](#footnote-ref-195)
195. *Id*. at 19. [↑](#footnote-ref-196)
196. Mapai Committee for Arab Affairs, Transcript (Mar. 17, 1960). [↑](#footnote-ref-197)
197. *See generally* Bäuml, A Blue and White Shadow, *supra* note 37, at 42. [↑](#footnote-ref-198)
198. Recommendations re: the Arab Minority in Israel, *supra* note 101. [↑](#footnote-ref-199)
199. Transcript of Cabinet Meeting, *supra* note 91 (“[I]t is not good to oppress a minority, it is not good when the minority’s economic state is bad, but it is even worse when the minority is well-off and getting wealthier because of the majority.”) [↑](#footnote-ref-200)
200. Mapai Committee for Arab Affairs, Transcript, *supra* note 171, at 1-2. [↑](#footnote-ref-201)
201. Mordechai Namir, Mapai’s Leadership Meeting (add exact reference). [↑](#footnote-ref-202)
202. Mapai Comm. for Arab Affairs, Protocol 21 (Feb. 12, 1960). [↑](#footnote-ref-203)
203. *Id*. [↑](#footnote-ref-204)
204. *Id*. [↑](#footnote-ref-205)
205. Ron Harris, *State Identity, Territorial Integrity and Party Banning: The Case of a Pan-Arab Political Party in Israel*, 4 Socio-Legal Rev. 19, 32-36 (2008). [↑](#footnote-ref-206)
206. *Id*. at 37. [↑](#footnote-ref-207)
207. Lustick has described this strategy to benefit and include the Arab population to secure party loyalty was recognized as “cooptation of the Arab elite.” He identifies that Israeli officials used payoffs to co-opt Arab elites to perform different services (providing information, but also votes). Yet, distinct from the affirmative action measures this Article is describing, cooptation efforts were targeting *individual* traditionalist and nontraditional Arab leaders. *See* Lustick, *supra* note 23, at80. [↑](#footnote-ref-208)
208. Mapai Comm. for Arab Affairs, Protocol 1 (May 5, 1961) (LMA-27-1960-116). [↑](#footnote-ref-209)
209. *See* Mapai Comm. for Arab Affairs, Protocol, *supra* note 199, at 73-81. [↑](#footnote-ref-210)
210. *See* Recommendations re: the Arab Minority in Israel, *supra* note 101, at 11. [↑](#footnote-ref-211)
211. Ha’aretz (Sept. 6, 1948). For a review of the egalitarian ideologies motivating Israeli officials during the first two years of Israel’s statehood, see Rekhess, *supra* note 29, at 103-23. [↑](#footnote-ref-212)
212. Yitzhak Ben Zvi, *On the Problem of National Minorities,* Davar, Sept. 9, 1949. [↑](#footnote-ref-213)
213. Yitzhak Ben Zvi, *The Problems of the Majority in Israel*, Davar, Nov. 25, 1949. [↑](#footnote-ref-214)
214. Mapai Action Plan for the Arab Population (1960) [↑](#footnote-ref-215)
215. *See* *supra* note 39. [↑](#footnote-ref-216)
216. DK (1959) 1932, 1936 (Isr.). [↑](#footnote-ref-217)
217. Mapai Comm. for Arab Affairs, Protocol 21 (Feb. 12, 1960). [↑](#footnote-ref-218)
218. Eliezer Be’eri, *Decision and its Exaction*, Al HaMishmar, Mar. 5, 1953. [↑](#footnote-ref-219)
219. A. Bejer, The Arab Worker is Unrepeatable from the Worker Population, Davar, July 28, 1963. [↑](#footnote-ref-220)
220. The Elections for the Sixth Knessent among the Arab and Druze Population, The Committee for Arab Affairs (Dec. 12th, 1965) [↑](#footnote-ref-221)
221. Mapai’s Committee for Arab Affairs, Transcript 5 (May 4, 1962). [↑](#footnote-ref-222)
222. Or Comm. Report (2003) (finding that Arab citizens have been systematically discriminated against). [↑](#footnote-ref-223)
223. For a review of retrospective methodology in the historiography of Israel’s approach toward the Arab minority, in contrast to the “responsive” approach that focuses on the process of policymaking, see Rudnitzky, *supra* note 30. [↑](#footnote-ref-224)
224. Lustick, *supra* note 23, at80. [↑](#footnote-ref-225)
225. See The Five Tears Report, supra \_\_ at 5-6 (reporting that in 1951 there were 173,000 Arabs in Israel, out of which 7000 Arabs lived in Haifa and 5,000 lived in Jaffa, and the rest mostly lived in Arab villages and some in separate towns). [↑](#footnote-ref-226)
226. Blank, plus Abba Hushi’s proposal [↑](#footnote-ref-227)
227. *See* Zachary Lockman, Comrades and Enemies: Arab and Jewish Workers in Palestine, 1906-1948 (1996). [↑](#footnote-ref-228)
228. Ben-Porath*,* *supra* note 68, at 54-55. [↑](#footnote-ref-229)
229. *Id*. at 55. [↑](#footnote-ref-230)
230. Bäuml, *The Subjugation of the Arab Economy*, *supra* note 37. [↑](#footnote-ref-231)
231. Bäuml, A Blue and White Shadow, *supra* note 37, at 118. [↑](#footnote-ref-232)
232. Ministers Committee for Dispersing the Population, Transcript (Jan. 7, 1963) (ISA-6397/3944/1) (Ben-Gurion said that in all the Kibbutzim, Arab laborers were already employed). [↑](#footnote-ref-233)
233. *Id.* at 162. [↑](#footnote-ref-234)
234. Ben-Porath*,* *supra* note 68, at 59-62. [↑](#footnote-ref-235)
235. *Id*. at 66-67. [↑](#footnote-ref-236)
236. Mapay Committee for Arab Affairs, Transcript, 3, early 1960s (undated)(ISA-13909-8-GL).. [↑](#footnote-ref-237)
237. Ben-Porath, *supra* note 68, at 27 (“The percentage of workers in industry, construction and crafts from the general Jews and Arab population, was approximatively equal during those years. Yet, while only ten percent of Jews from this group were unskilled workers, about one-third of the Arabs were.”); *see also* Bäuml, A Blue and White Shadow, *supra* note 37, at 166 (“[T]he main field in which Arabs were absorbed was in construction of Jewish building sites.”). [↑](#footnote-ref-238)
238. Bäuml, A Blue and White Shadow, *supra* note 37, at 165-66; Ben-Porath, *supra* note 68 (describing similar trends at the beginning of the 1960s); Lustick, *supra* note 23; Elyaho Ben-Amaram, The Arab Population in Israel – A Demographic Survey (1965) (ISA-13963/19-GL) (reporting that 90 percent of the Arab workers in 1965 were concentrated in construction, agriculture, industry and services). [↑](#footnote-ref-239)
239. Ben-Porath, *supra* note 68, at 53. [↑](#footnote-ref-240)
240. The numbers do not all align because the categories and what they include are not the same. *See* Ben-Porath, *supra* note 68; Lustick, *supra* note 23, at 161. For a detailed account of the distribution of labor in 1963, see DK, *supra* note **Error! Bookmark not defined.**, at 2642-45. [↑](#footnote-ref-241)
241. When including the teachers, the percentage of Arabs employed in the public sector spikes to 7.3 percent in 1961. *See* DK August 7th 1963 at 2643. [↑](#footnote-ref-242)
242. *See* Bäuml, A Blue and White Shadow, *supra* note 37, at 302. [↑](#footnote-ref-243)
243. The Advisor of Arab Affairs, A Survey on Educated Arabs 4 (Oct. 13th, 1964) (ISA-17036/20). [↑](#footnote-ref-244)
244. *See, e.g.*, \_\_. [↑](#footnote-ref-245)
245. Mapai’s Committee for Arab Affairs (the solution the committee recommended was elevating the levels of education and professional training of the Arab minority). As a 1961 report by the Committee for Problems of Employment and Professional Training of Arab Youth shows, only thirty percent of Arab elementary school graduates (8th grade) continued to high school, in contrast to eighty-five percent of the Jews. [↑](#footnote-ref-246)
246. 1900 Educated Arabs and Druze Work in the Civil Service, HaModia (Dec. 20, 1961). [↑](#footnote-ref-247)
247. DK, Apr. 7, 1959. This topic was also addressed in a Knesset discussion from 1963. [↑](#footnote-ref-248)
248. *See* Office of the Prime Minister, Untitled Report 8 (Oct. 27, 1976) (ISA 74304-GL). [↑](#footnote-ref-249)
249. *Id*. at 10. [↑](#footnote-ref-250)
250. *See* Al-Haj, *supra* note 146, at 61-76 [↑](#footnote-ref-251)
251. Lustick*, supra* note23, at 191. [↑](#footnote-ref-252)
252. *See* Al-Haj, *supra* note 146, at 63. [↑](#footnote-ref-253)
253. Bäuml, A Blue and White Shadow, *supra* note 37, at 211-12; *see also* DK Aug. 7, 1963 at 2643 (similar data for 1963). [↑](#footnote-ref-254)
254. *Id.* at 212. [↑](#footnote-ref-255)
255. For an extensive review of the “locality” principle in education and its implications for inequality, see Blank, *supra* note 153. [↑](#footnote-ref-256)
256. Mapay Committee for Arab Affairs, Transcript, 3, early 1960s (undated)(ISA-13909-8-GL).. [↑](#footnote-ref-257)
257. Issachar Rosen-Zvi, Taking Space Seriously: Law, Space and Society in Contemporary Israel(2004)(introducing the claim that educational segregation between Arabs and Jews is desired both by the Jewish majority and by the “Arab minority that wishes to use the school system as a vehicle of cultural autonomy”); *see also* Eyal Benvenisti, *supra* note 6, at 769. [↑](#footnote-ref-258)
258. *See* Blank, *supra* note 153, at 400 (“The legal structure . . . translated—technically and automatically—residential segregation (where it exists) into segregation in the education system.”). [↑](#footnote-ref-259)
259. *See* Michel Rosenfeld, Affirmative Action and Justice: A Philosophical and Constitutional Inquiry 2 (1991). [↑](#footnote-ref-260)
260. Owen M. Fiss, *Groups and the Equal Protection Clause*, 5 Phil. & Pub. Aff. 107, 151 (1976). [↑](#footnote-ref-261)
261. Cass R. Sunstein, *Three Civil Rights Fallacies*, 79 Calif. L. Rev. 751, 770 (1991) (“a systemic disadvantage is one that operates along standard and predictable lines, in multiple important spheres of life, and that applies in realms like education, freedom from private and public violence, wealth, political representation, and political influence, all of which go to basic participation as a citizen in a democratic society”); *see also* Ford, *supra* note 16. [↑](#footnote-ref-262)
262. City of Richmond v. J.A. Croson Co., 488 U.S. 469, 509 (1989); *see* *also* Reva B. Siegel, *The Supreme Court, 2012 Term—Foreword: Equality Divided,* 127 Harv. L. Rev. 1, 30-31 (2013). [↑](#footnote-ref-263)
263. HCJ 453/94 Israel Women’s Network v. Government of Israel 48(5) P.D. 501, para. 16 (1994) (Isr.). [↑](#footnote-ref-264)
264. Henry McGee, Alan Freeman & Derrick A. Bell, *Race, Class, and the Contradictions of Affirmative Action*, 7 Black L.J. 270, 275 (1981). [↑](#footnote-ref-265)
265. Nancy Fraser, *From Redistribution to Recognition? Dilemmas of Justice in a ‘Post-Socialist’ Age*, 212 New Left Rev. 68, 82 (1995). [↑](#footnote-ref-266)
266. *Id.* [↑](#footnote-ref-267)
267. McGee, Freeman & Bell, *supra* note 259, at 273. [↑](#footnote-ref-268)
268. John David Skrentny, The Ironies of Affirmative Action: Politics, Culture, and Justice in America 68 (1996). [↑](#footnote-ref-269)
269. Paul Frymer & John D. Skrentny, *The Rise of Instrumental Affirmative Action: Law and the New Significance of Race in America*, 36 Conn. L. Rev. 677, 704 (2003) (“Wharton School professor Herbert Northrup argued, ‘The more educated, the more experienced and more integrated the Negro labor force becomes, the less tension and the fewer problems we'll have in this country.’”). [↑](#footnote-ref-270)
270. *Id*.; Skrentny, *supra* note 264, at 67-110. [↑](#footnote-ref-271)
271. *See* Griggs v. Duke Power Co., 401 U.S. 424 (1971) (one of the most important court decisions in the legitimation of affirmative action, which shifted to egalitarian rationales). [↑](#footnote-ref-272)
272. For the transformation from remedial justice to diversity in the justification of affirmative action see Richard A. Posner, *The* Bakke *Case and the Future of “Affirmative Action,”* 67 Calif. L. Rev. 171, 178–80 (1979) For the later transformation in the meaning of diversity from egalitarian rationale to a utilitarian one see Ofra Bloch, *Diversity Gone Wrong: A Historical Inquiry into the Evolving Meaning of Diversity from Bakke to Fisher*, 20 U. Pa. J. Const. L. 1145–1210 (2017).. [↑](#footnote-ref-273)
273. *See* Al-Haj, *supra* note 146. [↑](#footnote-ref-274)
274. Michelle Adams, *Integration Reclaimed: A Review of Gary Peller’s Critical Race Consciousness Book Review*, 46 Conn. L. Rev. 725-62 (2013). [↑](#footnote-ref-275)
275. In Israel it is often considered [↑](#footnote-ref-276)
276. While beyond the scope of this Article, this kind of analysis can help account for the differences in the ways that gender- and race- or ethnicity-based affirmative action operate, in accordance with the fact that most schools are not sex-segregated but are according to race. [↑](#footnote-ref-277)
277. Blank; Gavison… [↑](#footnote-ref-278)
278. Or Comm. Report, *supra* note 217; for a more contemporary account see infra notes \_\_\_ [↑](#footnote-ref-279)
279. Elizabeth Anderson, The Imperative of Integration \_\_\_\_ (2010). [↑](#footnote-ref-280)
280. *Id*. at 183-89. For an economic analysis of education, see also Lee Anne Fennell*, Beyond Exit and Voice: User Participation in the Production of Local Public Goods*, 80 Tex. L. Rev. 1 (2001) (arguing that education is a unique type of commodity, in which those who consume it participate in its production, and thus determine its value). [↑](#footnote-ref-281)
281. See Blank, supra note \_\_ at 420. [↑](#footnote-ref-282)
282. See the Social Survey on Mastery of the Hebrew Language and Usage of Languages, The CBS (2011) (showing that while almost 90% of the Jews in Israel have a very good proficiency of Hebrew, less than half of the Arabs do. The survey also shows the strong correlation between the level of Hebrew proficiency and employment levels). For an account on the different ways in which insufficient proficiency in Hebrew limits the opportunities of the Arab minority see Shirly Marom, the Importance of the Hebrew Language for the integration and promotion of the Arab population in the Workforce, Gadish-A Journal for Adult Education Published by The Ministry of Education (2014). [↑](#footnote-ref-283)
283. Brown v. Board of Educ. of Topeka, 347 U.S. 483 (1954) [↑](#footnote-ref-284)
284. *See, e.g.*, HCJ 6924/98 Association for Civil Rights in Israel (ACRI) v. State of Israel 55(5) PD 15 (2001) (Isr.) (English version available at http://versa.cardozo.yu.edu/opinions/association-civil-rights-israel-v-state-israel) (the petitioner challenged the appointments to the Council of the Israel Land Administration, which manages most of Israel’s lands on behalf of the state). [↑](#footnote-ref-285)
285. *See, e.g.,* Yaniv Roznai, *Israel A Crisis of Liberal Democracy?*, SSRN Electronic Journal (2018), https://www.ssrn.com/abstract=3157986 (last visited Nov 29, 2018); “We the Jewish People”–A deep look into Israel’s new law, Just Security (2018), https://www.justsecurity.org/59632/israel-nationality-jewish-state-law/ (last visited Dec 18, 2018). [↑](#footnote-ref-286)
286. Basic Law: Israel – The Nation-State Of The Jewish People (Susan Hattis Rolef, trans.) (Isr.), https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf (stating that “[t]he state views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation.”). [↑](#footnote-ref-287)
287. Budget Foundations Law (Amendment No. 40), 5771-2011 (Adalah, trans.) (Isr.), https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/33-Budget-Foundations-Law-Amendment40-Nakba-Law.pdf (for example, the 2011 Nakba Law authorized the Minister of Finance to reduce monetary support for entities that have made any payment to promote an event or action that, among other things, violates the symbols of the State or commemorates “Independence Day or the day of the establishment of the state as a day of mourning”). [↑](#footnote-ref-288)
288. The Minister of Culture changed the conditions for budgetary allocations to include loyalty requirements to the state of Israel. [↑](#footnote-ref-289)
289. HCJ 8898/95 Ka'adan v. Israel Lands Administration, 54(1) PD 258, 282 (2000) (Isr.) (English version available at http://versa.cardozo.yu.edu/opinions/ka%E2%80%99adan-v-israel-land-administration) (addressing whether an exclusive allocation of state-owned lands to Jewish citizens was lawful, and holding that the policy constituted unlawful discrimination on the basis of nationality). [↑](#footnote-ref-290)
290. *See, e.g.*,Channan Cohen, *The Positions of the Jewish Population about the Arab Population Citizens of Israel*, Israel Democracy Inst. (Nov. 21, 2011). [↑](#footnote-ref-291)
291. HCJ 8898/95 Ka'adan v. Israel Lands Administration, 54(1) PD 258, 282 [2000] (Isr.) (English version is available at ISCP website: http://versa.cardozo.yu.edu/opinions/ka%E2%80%99adan-v-israel-land-administration) [↑](#footnote-ref-292)
292. Civil Service Law (Appointments), 5719-1959, SH No. 279 p. 86 ss. 15A(b) (Isr.); Government Corporations Law, 5735-1975, SH No. 730 p. 132 s. 18A1. [↑](#footnote-ref-293)
293. HCJ 6924/98 Association for Civil Rights in Israel (ACRI) v. State of Israel 55(5) PD 15 (2001) (Isr.) (English version available at http://versa.cardozo.yu.edu/opinions/association-civil-rights-israel-v-state-israel). [↑](#footnote-ref-294)
294. Government Resolution No. 2579 (Nov. 11, 2007) (Isr.); Government Resolution No. 4436 (Jan. 25, 2009) (Isr.) (adding more designated positions). [↑](#footnote-ref-295)
295. Keren Abraham Report (2017). [↑](#footnote-ref-296)
296. *See* Roi Assaf, *Governmental Economic Policy Toward the Arab Sector*, Authority for the Economic Development of the Minority Sectors (June 2015). [↑](#footnote-ref-297)
297. [↑](#footnote-ref-298)
298. *See* Aiman Saif, Government Economic Policy toward Minority Populations, Authority for the Economic Development of the Minority Sectors (Feb. 2016) (reporting that the Arab population constituted 21% of the population and only 8% contribution to the GDP, creating an estimated loss of 30 billion NIS a year); Moran Azulay & Hassan Shaalan, *Gov't Approves NIS 15 Billion Plan To Invest In Arab Municipalities*, Ynet (Dec. 30, 2015), https://www.ynetnews.com/articles/0,7340,L-4746536,00.html (reporting that the Israeli government approved a five-year plan to invest NIS 15 billion in the development of Arab municipalities in the fields of education, transportation, employment, and housing). The government also promoted the representation of Arabs in the public sector. *See* Government Resolution No. 4729 (Mar. 12, 2006) (Isr.); Government resolution No. 4436 (Jan. 25, 2009) (Isr.); Government Resolution No. 414 (Aug. 14, 2006) (Isr.) (appropriating a number of “designated positions” in the public service sector for the Arab population in addition to the general pool of open positions, as well as setting timetables and quotas for the promotion of the representation of Arabs). [↑](#footnote-ref-299)
299. *See, e.g.*, Amnon Beeri-Sulitzeanu, *It’s Not Just the Economy, Stupid*, Ha’aretz (Jan. 28, 2011), https://www.haaretz.com/opinion/it-s-not-just-the-economy-stupid-1.339690 (“What is the message that is being sent to Israel’s Arab citizens? That the civil service wants them, but their loyalty is suspect; that the high-tech industry is open to them, but they are a security threat ‏. . . ; that it’s important that they attend university, but they should play down their identity there; that they may be ‘colleagues’ of Jews, but they will never be just ‘friends’; that their money is welcome in the malls, but they shouldn’t even dream of living in the adjacent neighborhoods; that they can establish businesses in an industrial zone, but will never be accepted as members of the neighboring village; that they may be leaders in their professions, but their language and culture are alien and repulsive.”); Ariel Ben Solomon, *Israel’s Arab Sector Sees Rising Economic Integration, but Cultural Tensions Linger*, JNS (Mar. 1, 2017), http://www.jns.org/latest-articles/2017/3/1/israels-arab-sector-sees-rising-economic-integration-but-cultural-tensions-linger. [↑](#footnote-ref-300)
300. Merav Arlozorov, *Bibi Good for The Arabs (but his actions are frustrating),* Ha’aretz (May 26, 2018), https://www.themarker.com/markerweek/.premium-1.6114889. [↑](#footnote-ref-301)
301. Ephraim Lavie, *Integrating the Arab-Palestinian Minority in Israeli Society: Time for a Strategic Change*, Inst. for Nat’l Sec. Studies 101-13 (2016), http://www.inss.org.il/he/wp-content/uploads/sites/2/systemfiles/IsraelandArabSociety072794085.pdf. [↑](#footnote-ref-302)
302. *Id*. at 149. [↑](#footnote-ref-303)
303. [↑](#footnote-ref-304)
304. [↑](#footnote-ref-305)
305. [↑](#footnote-ref-306)
306. [↑](#footnote-ref-307)
307. [↑](#footnote-ref-308)
308. Gilli Lis-Ginsburg, *Arabs who Work in Jewish-owned Businesses*, Ministry of Economy (Jan. 2014) http://www.economy.gov.il/Research/Documents/X12655.pdf (for example, 28.6 percent of the construction businesses that employ Arabs, employ over 40 percent of Arabs). [↑](#footnote-ref-309)
309. Zanan Basol, *Appropriate Representation of Women Does not Guarantee Equal Pay to Men*, The Marker (Dec. 19, 2016), https://www.themarker.com/career/1.3164455. [↑](#footnote-ref-310)
310. Layla Margalit, *The Integration of the Arab Population in Centers of Decision Making in the Public Sector*, Israel Democracy Inst. (Aug. 29, 2017), https://www.idi.org.il/parliaments/18632/18636. [↑](#footnote-ref-311)
311. The Abraham Fund Initiative, Arabs in the Workforce (Jan. 2012). [↑](#footnote-ref-312)
312. *Promoting and Integrating Arab, Druze and Circassian Societies*, Council for Higher Educ., http://che.org.il/en/the-new-multiannual-program/promoting-and-integrating-arab-druze-and-circassian-societies/. [↑](#footnote-ref-313)
313. Id. [↑](#footnote-ref-314)
314. Lior Dattel, *Number of Arabs in Israeli Higher Education Grew 79% in Seven Years*, Ha’aretz (June 24, 2018), https://www.haaretz.com/israel-news/number-of-arabs-in-israeli-higher-education-grew-79-in-seven-years-1.5763067 (showing that the only courses of study in which Arabs are enrolled in numbers that reflect their share of the population are teaching and medical-related professions); *see also* Gor Megido, *The Answer to the Nation Law: A Sharp Increase in the Number of Arab Students Enrolled in Law School*, The Marker (Aug. 29, 2018), https://www.themarker.com/law/.premium-1.6428926 (reporting on the raise in enrollment of Arab students in law school). [↑](#footnote-ref-315)
315. Lavie, *supra* note 294, at 101-13. [↑](#footnote-ref-316)
316. Ministry of Education, “Hebrew as a second language for Arabic-speaking students,” National Authority for Measurement and Assessment in Education (RAMA) (October 5, 2017) (Hebrew). http://meyda.education.gov.il/files/Rama/Alda\_Takzir\_2017.pdf [↑](#footnote-ref-317)
317. Robert Gordon’s body of work provides the inspiration for approaching the normativity of legal history in this manner. Robert Gordon, Taming the Past 8, 303 (2017) (“The premise is that if we can show how past forms were made and unmade, and how present forms in their turn came to be put together, we can make the present seem more plastic, more amenable to present re-imagination and change.”). [↑](#footnote-ref-318)
318. [↑](#footnote-ref-319)