

## **The Arab Minority in Israel between the Absence of a Written Constitution and the Enforcement of the International Law.**

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### *Abstract*

*Since the foundation of the state of Israel in 1948, there has been contention in the scholar and practitioner literature concerning the well-being of Arab minorities. One of the common concerns is how minority rights are protected and guaranteed in Israel in light of the absence of a written constitution and whether enforcement of international law is implemented in Israel. The objective of this study was to examine the impact of the absence of a written constitution and the enforcement of international law on the Arab minorities in Israel. To explore this objective, three sub-questions were formulated. To answer these research questions, mixed-method research was adopted where data was collected quantitatively using survey questions, and qualitatively using interview sessions, and focus group discussions. In the first part, which was a preliminary study, relevant data were collected from 30 participants (who included lawyers, teachers, judges, a member of the Knesset, scholars, and regular people) using both interviews and focus group sessions. In the second part of the study, data were collected from 200 participants who included lawyers, teachers, judges, scholars, and regular people from the Arab minority groups in Israel. Results obtained from the interview sessions, focus-group discussions, and survey questionnaires all reveal three main issues. First, Israel lacks a written constitution because of several factors that can be summarized into historical, political, social and cultural contexts. Second, the absence of a written constitution in Israel has diverse negative impacts on the well-being of the Arab minorities in Israel in terms of exacerbating violations of their basic rights. Third, results revealed that the scope of international law, especially when considering human rights, is limited in its enforcement in Israel. In conclusion, the lack of a written constitution in Israel largely disadvantages Arab minorities in accessing their basic rights, while the enforcement of international law to Israel largely remains ineffective.*

**Keywords:** *Arab Minority in Israel, Written Constitution, the International Law, well-being, basic rights*

## **1. Introduction**

Countries develop and enact constitutions to achieve diverse needs for their citizens. Some of these needs include the desire to make a fresh start, specifying conditions on how people desire to be governed, regulating the actions of their leaders and government, and attaining a framework to guarantee individual and group rights and freedoms. Furthermore, constitutions are created to promote fundamental values, serves as an enduring basis for governments, and foster shared loyalty to the country and a sense of common purpose. The subsequent sections briefly elaborate on these points on why countries have constitutions (Hedling, 2017).

Most constitutions are initiated after a period of growing public unrest and discontent concerning social, economic, cultural, or political concerns (González de Lara, Avner, & Saumitra, 2018). In the process to restore the rule of law, create fairness, and equality among diverse ethnic or racial groups in a particular country, there is a desire to initiate a constitution to address urgent matters of public concern and promote general wellbeing for individuals and/or groups (Gordon, 2015). Therefore, a constitution is an aggregate of fundamental principles or established precedents that constitute the legal basis of a polity, communities, or another type of entities, and commonly determine how concerned parties are be governed in efforts to resolve past unrests and contentions (Ginsburg & Mila Versteeg, 2014). Generally, it can be argued that countries draw up a constitution (or make recommendations to existing ones) when they want to make a fresh start and move away from old or outdated practices are considered to be less productive (Ginsburg & Mila Versteeg, 2014).

### **1.1 Israel's Basic laws:**

The 1948 Declaration of Independence is Israel's foundational document. It introduced the concept of Israel as a Jewish and democratic state. As a result of numerous challenges in reaching consensus on the content of a complete and formal Constitution, the Knesset adopted the 'Harari proposal,' which outlined an alternative method for developing Israel's constitutional law (McBurney, 2014). It nominated the Constitution, Law and Justice Committee as responsible for drafting chapters of a future Constitution, each constituting a separate 'basic law'. These Basic Laws are not comprehensive, the

Israeli Supreme Court has determined that they form the basis of Israeli constitutional law. This means that if other Israeli laws are determined to be inconsistent with the Basic Laws, they can be 'struck down' and rendered constitutionally invalid by the courts. They also require a higher threshold of votes to pass into law requiring a decisive majority of 61 votes in favor, rather than a simple majority as for normal legislation (Plenn,2005).

Israel does not have a written constitution. However, its system of Basic laws now has a de-facto constitutional status (Gharrah, 2012). This means that even laws passed in the Knesset must comply with the overarching values enshrined in these laws. The Basic laws are similar to those found in Canadian constitutional legislation (Gharrah, 2012). They set out the overarching standards that Israeli institutions - legislative, executive and judicial - must adhere to (Bourne, 2010). Its judiciary enjoys wide judicial power and discretion in making case law. Furthermore, it is important to understand that the principle of precedent in Israeli law means that a decision in of a higher court will bind a lower court, and the Supreme Court is not bound by its own decisions (Bourne, 2010).

Under the Basic laws are regular laws, and below these various acts of the executive branch (Ministers), which are administrative regulations. As in other legal systems, the lower tiers are subordinate to the higher ones, and the overarching influence of Israel's Supreme Court and

Basic laws should not be underestimated. Israel's Supreme Court has wide discretion and applies an active interpretive approach, which shapes and regulates administrative discretion. Where a right protected by the Basic laws is interfered with, the relevant Basic law will be the touchstone against which the provision in question is tested (Navot, 2007)

## **1.2 International law:**

International Law consists of the rules and principles of general application dealing with the conduct of States and of international organizations in their international relations with one another and with private individuals, minority groups and transnational companies. International law is the term used to refer to all legally binding rules that apply at the international level. International law, which concerns the way in which States behave towards one another, has a primarily regulatory function for the purpose of facilitating international cooperation and giving it a predictable pattern on the basis of binding rules.

One of the main objectives of international law is to create the conditions for international peace and stability (Akande, 2010).

### **1.3 The Problem of the Study**

Before the May 1948 Arab-Israeli war and the establishment of the State of Israel, around one million Palestinian Arabs lived in the territory known at the time as the British Mandate of Palestine. Expulsions and mass flight drove around 750,000 Palestinian Arabs out of the land, forcing them into exile in the neighboring Arab states (Masalha, 2003, 26). The Arabs who remained consequently became a minority practically overnight, and quickly gained citizenship of the new Jewish state (Pappé 2013, 9). These traumatic events are known among Palestinians and other Arabs as the Nakba ('catastrophe') and continue to have a profound influence on Arab minority identity, nationalism, and self-understanding.

The Arab citizens of Israel, now numbering more than a million and a half citizens (Central Bureau of Statistics 2021), are both indigenous people and a minority. These Arab minorities hold links to the land stretching back generations but are largely unable to identify with the modern Jewish state under whose jurisdiction they live (Rekheh, 2014). Despite possessing full Israeli citizenship, critics largely argue that these minorities have suffered (and continue to suffer) systemic state discrimination in various government and state areas. For example, some of the potential areas of discrimination that minority groups suffer include the realms of education, budget allocations, land ownership rights, the media and language rights (Mossawa Center 2017). The disadvantaging position for the Arab minorities of Israel has also been worsened by the passing of the Nation-State Law in July 2018 by the Knesset (Israel Parliament). The Nation-State Law has a constitutional status that articulates for Jews alone the right of self-determination, makes it a national priority to build homes for Jews but not the other minority groups, and revokes the status of Arabic as an official language of Israel (Gordon, 2017) .

Scholars point out that these discriminations have their roots in the state's prioritization of Israel ideology, which considers historic Palestine (also known as the Land of Israel) the national homeland for the Jewish people (Troy, 2018). In contrast, Israel's Jewish population is perceived to receive preferential treatment in practically all areas of life, at the expense of its non-Jewish Arab minority citizens. The dominance of Zionism

has also put severe limits on the political expression of the Palestinian minority, especially where its activities are deemed to threaten the ‘Jewish nature’ of the state (Rouhana & Sabbagh-Khoury 2018, 211). For example, any political party can be banned from the Israeli parliament (known as the Knesset) if it seeks to “negate the existence of Israel as a Jewish and democratic state” (Knesset 1958). The result is that any Arab political party wishing to participate in the Israeli democratic process is forced to work within the confines of Zionism.

The situation of the Arab minority cannot be divorced from the wider Israeli-Palestinian conflict, which is a potent undercurrent running beneath often tense Arab-Jewish relations inside Israel. Despite this, the Arab minority in Israel has been completely left out of peace negotiations. By concentrating solely on Arabs living in the West Bank, the Gaza Strip and refugees in the diaspora, the widely-favored two-state solution treats Palestinians in Israel as an internal Israeli issue and leaves their predicament unsolved (Farah 2017). This is compounded by the fact that much debate by international relations specialists and other observers is informed by the realist school of thought. This paradigm’s focus on state structures neglects the important role played by minority and refugee populations, as well as the influence of key concepts such as identity, memory, group psychology and transnationalism (Krause & Renwick 2016, 96).

There is a wide array of literature on the Arab minority in Israel, spanning the fields of international relations, political science, history, and sociology. Over the decades, there is a growing influence of international law on national judiciaries. Broadly speaking, this is part of a larger trend reflecting the increasing significance of international law in several spheres between Arab minorities in Israel. First, international agreements have become major factors in the economic and political spheres in an age of globalization. Second, there is an increasing tendency to bring disputes to international tribunals, notably exemplified in the establishment of the International Criminal Court. Third, and more significant to the discussion at hand, national courts are tending to increase their recourse to international instruments, particularly in the context of applying international human rights norms.

One court where international law has gradually gained influence since the late 1990s is the Supreme Court of Israel. The high visibility of the Israeli-Palestinian conflict in the international scene is a factor that heightens international interest in Israeli court

decisions that involve international law aspects—whether applicable to Israel proper or to the territories in the West Bank and the Gaza strip occupied by Israel in 1967 (hereinafter “the occupied territories”). The Arab as a minority under a foreign authority suffers from discrimination and marginalization compared to the Jewish population. Two issues may affect the status quo of the Arab population in Israel. First the absence of a written constitution and second the enforcement of the international law. On one hand, a constitution determines how we live together as a country, how the country is run and how laws are made. Regarding Israel, there is no written constitution. The Israeli legal system is a hierarchy consisting of several tiers. At the top are the ‘Basic laws’, which enshrine constitutional values and rights. This means that the power of the legislative, and the executive branch, to interfere with these rights is limited.

Israel’s quasi-constitution – the basic laws – suffers from both incompleteness and a lack of legitimacy. Israel’s laws are interpreted and developed through the specific decisions of the courts. All this opened a wide window for personal judgments, contradictions, controversial decisions among different judges and legislation factors. Moreover, according to Clarke (1996), the unwritten constitution is not effective and may even fail. First, because no single word or term can be invoked, there is no definition of state powers and no limits except “custom”, meaning whatever compromise is necessary between current public opinion and the government’s sense of virtue. Second, only a select few can acquire such knowledge of the unwritten constitution as to be capable of interpreting it, and what is most worrying, these are precisely the sort of people who will be tempted to connive in constitutional subversion. Moreover, a written constitution limits the state’s power.

On the other hand, International law stems from the interaction between, States and governs the relations between them. It provides a basis for peace and stability throughout the world and for the protection and well-being of peoples everywhere. Relations between nations have become more intensive and complex with the advance of globalization. International law covers many fields, including the Prohibition of the use of force; Human rights and the protection of individuals in times of war and armed conflict as well as international efforts to combat Terrorism and serious crimes. It also extends into such areas

as the environment, international trade, development, telecommunications, and international transport.

As a minority in Israel, I strongly believe, that the Arab population suffers from two main problems first the absences of a written constitution, which is reflected in many issues. First and foremost, the policymakers and legalization factors in Israel are mainly Jewish, even in the Knesset, the unicameral national legislature of Israel, the representation of the Arab population is limited compared to the Jewish population, an Arab can't be a president, prime minister or have any key minster position like defense, education or health. Even if we look at the Supreme Court, there were only individual cases, where an Arab judge was assigned. Second, the weak enforcement of the international law, in accordance with the principle of the Sovereignty of States, a State is only obliged to comply with those rules of international law to which it has agreed to adhere.

Underwriting the above considerations, there is a need to investigate the experience of the Arab minority in Israel between the absences of a written constitution and the enforcement of the international law. As such, there is a need to investigate this issue, with a specific focus on the repercussion of the formal written constitution absence on the democracy in Israel, inter alia it's consequences on the minorities in Israel and the scope of the international law enforcement in Israel and its effect of the Arab minority.

#### **1.4 The Importance of Significance of the Study**

The current study is important for three main reasons:

First, the research will help highlight some of the fundamental reasons why Israel does not have a written constitution. The primary argument for lack of the constitution has been attributed to the special historical, political, social and cultural context of Israel. In addition, the supposed 'rigidity' of a written constitution, lack of consensus on their content, ideological reasons, and the 'democracy' inherent in parliamentary sovereignty have also been cited as key impediments towards a written constitution in Israel. Moreover, the study will argue that the absence of a written constitution may be due to the fact that any constitution has to address politically-sensitive issues such as the role of religion and Jewish identity in Israeli life: for example, Reichman's (1986) suggestion for a written constitution was criticized for being too secular for a Jewish State.

Second, undertaking this study will also be key to understanding the consequences of the absence of a written constitution on the different minority groups in Israel, with a specific focus on the Arab minorities. Some of the important issues that will be deliberated and identified in this study include the impact on the right to equality and concerns about discrimination and the enactment of discriminatory laws. Also, the study will assess how the use of national services due to the lack of a written constitution acts as a mechanism for discrimination against Arab citizens of Israel in terms of the enjoyment of socio-economic rights. Other concerns which may be highlighted from this research in this respect include issues regarding lack of equal employment and employment opportunities, discernment of Arab citizens employed in the civil service, income, poverty and wage gaps, the ongoing ban on family unification, the demolition of Arab minority laws, and lack of access for Arab citizens of Israel to land and housing.

Third, the findings obtained from this study will also help assess the scope of international law enforcement in Israel. That is, the study will assess whether the international laws largely influence and informs the Israel national laws, with a specific focus on how the country approaches the interests and wellbeing of the Arab minorities. In the process, the study will help identify areas where the international laws are applied, and areas where there are limitations thereby informing recommendations for future enforcement and enhancement of the international law in Israel. Having presented the importance of undertaking this study, the next section outlines the objective, research questions, and hypotheses that informs the current research project.

## **2. Materials and Methods**

A mixed research methodology was used in this study where both qualitative and quantitative methods were used to investigate the formulated research questions. The motivation to use the mixed research approach was informed by the need to triangulate the collected information so as to ensure data validity and reliability. The choice for each of the research methods is briefly discussed and justified in the subsequent subsections.

### ***Qualitative Research Method***

The use of qualitative research in this study was intended to collect opinions, insights, and opinions from the Arab minorities of Israel concerning their experience in the absence of



a written constitution in Israel, and how international enforcement influences their lives. According to Creswell et al. (2003), the use of qualitative research method empowers the researchers in terms of their individual feelings towards a given topic. Therefore, the use of a qualitative research method in this study was is in line with constructivist and interpretivist research philosophies which argue that knowledge is contrasted mutually between the research and the population under study.

### ***Quantitative Research Method***

The use of a quantitative research method was informed by the objectivist and positivist philosophy adopted in this study where the researcher remained a distance from the research participants during the course of the data collection process. As such, the primary approach of information gathering involved the use of the survey questionnaire created for the study. According to Creswell (2003), quantitative data is essential in collecting empirical evidence which is key to analyzing statistical trends occurring within the research phenomenon.

## **3. Results**

### **The qualitative results:**

The results obtained from interview sessions are presented as IP for Interview Participant for the 30 participants who are numbered from IP1 to IP30. In contrast, feedbacks given by participants during focus group discussions are presented as FGP for Focus Group Participant for the 30 participants who took part in focus group discussions, numbered from FGP1 to FGP30.

### **The Reasons for the Absence of a Written Constitution in Israel.**

The participants were asked to share their views on why Israel lacks a written constitution. First, one of the reasons shared by the participants related to initial uncertainty about the state of Israel. The issue was shared both during the interview and the focus group sessions as evident from the quotes below.

*In 1948, Israel was created in a hurry and amid the civil war, there was no time to write a proper constitution due to the uncertainty of the outcome of the Israel-Arab war. — IP 3 (A Christian Lawyer from Nazareth).*

Second, another reason why Israel does not have a written constitution may be attributed to the dynamics of the Cold War. The observations were made by scholars and lawyers who took part in this study as further evident from the quotes below.

*Most leaders at the time of creating the State of Israel were from Eastern Europe and supported socialist ideas although liberalism was also strong. Ben Gurion did not want to choose between the Soviet Union and the United States yet before he was sure of the best choice between the superpowers. Enacting a constitution would have forced him to prematurely choose either the East or the West. — IP 17 (A Druze Scholar from Jerusalem).*

Third, the participants expressed that there was confusion at the time about the status of the Arabs. One of the main reasons was that it was not clear how many Arabs would live within Israel borders, or how many had stayed after the breakout of the war. The participants elaborated that,

*During and after the war, it was unclear how many of the Arabs that had fled would return or how many of them remained. Having a constitution would have mandated Israel to include a chapter towards Arab minorities. — FGP 1 (A Muslim scholar from Afula).*

Fourth, the other participants also observed that the issue of the borders had a major influence on the establishment of a written constitution, or its omission, in Israel. The sentiments on the influence of borders with the adoption of a constitution were noted during the interview and focus group sessions.

*If the borders were to change after the war, having a rigid constitution that defined borders could have made it difficult to amend and reflect new borders. — IP 7 (A Christian Teacher from Yaffo).*

Fifth, religious factors also played a key role in influencing the debate around the creation of a constitution. This claim was reflected by the participants are shown from the focus group and interview responses from the participants below.

*The Jewish people consider the Torah as supreme law and having a constitution could have been considered blasphemy to most religious individuals. — FGP 25 (A Muslim Participant from Afula).*

Sixth, historical issues such as ethnic diversity, politics, culture, and social issues were also noted to influence the constitutional debate in Israel. These insights were shared by the participants as further exemplified below.

*Over the years, there have been several attempts to create a constitution in Israel. However, all attempts such as the 1964 Klinghofer proposal, 1965 amendments by Akzin, and 1998 proposal by Bendor have all been rejected. The rejection has largely been due to lack of consensus or due to ideological reasons such as the rigidity of a written constitution and the democracy which may result from parliamentary sovereignty. —IP 13 (A Muslim Scholar from Afula).*

### **The consequences of the absence of a written constitution on Arab minorities in Israel.**

The the participants were asked how the lack of a written constitution affects them. The participants shared their insights on broad issues on how their lives are altered as minority Arab populations.

First, the participants were concerned about the lack of a constitutionally-guaranteed right to equality. Also, there were concerns that the lack of a written constitution has promoted some forms of discrimination on their lives which they consider an act of being marginalized and oppressed. These concerns were shared by the participants as elaborated in the quotes below based on the interview and focus group feedback.

*Discriminatory laws such as the ones where minorities have difficulties owning land and housing are not productive. They oppress the minority groups and disadvantages us compared to the Jewish population. — FGP 2 (A Christian Scholar from Haifa).*

Second, participants shared their fears that the use of national resources and the military has been legitimized as a mechanism from discrimination. Strong sentiments were shared on how such initiatives discriminate against Arab citizens of Israel in terms of limiting their social and economic rights.

*Military services in the fields of housing and land, education or other public sectors benefit the Jewish population when compared to Arab minorities. Today, Arab citizens lag behind their Jewish counterparts in most major socio-economic indices. — IP 6 (A Christian Teacher from Yaffo).*

Third, participants shared that they lac equal benefits in terms of employment opportunities. Various issues hinder the participation of Arab minorities of Israel in the labor market.

*The use of military service criteria as a condition for employment largely disadvantages the minority. —IP 28 (A Muslim Lawyer from Tayibe).*

Fourth, there is under-representation of minority groups in the civil service in Israel. The participants felt that lack of a written constitutions helps in propagating this under-representation of the Arab minorities in the Israeli labor market.

*In spite of the 1993 and 2000 amendments to the Civil Service Law (Appointments) – 1959 law and various government decisions, the percentage of Arab citizens in general (6.5%) in the civil service remains far lower than their percentage of the population (around 20%). — IP 22 (A Druze Lawyer).*

Fifth, the Arab citizens also expressed that they do not enjoy full rights to social security especially in terms of equal footing compared to Jewish citizens.

*The Arab citizens have problems enjoying social support in addition to experiencing hurdles n accessing income support allowance especially for persons who live in places where there are no public transport networks. — IP 19 (A Muslim Scholar from Haifa).*

Sixth, there concerns that Arab minorities in Israel are disadvantages in terms of their income levels, which has contributed to high poverty levels and widening wage gaps when compared to the Jewish citizens. These insights were shared by the participants during the interview and focus group sessions.

*There is laxity in measures taken by the Israel government, if any at all, to reduce the growing gap in employment, wages, and poverty levels between the Arab and Jewish citizens of the state in line with the principle of “equal pay for work of equal value”. — FGP 23 (A Druze scholar from Sakhnin).*

Seventh, the participants also shared that Israel lacks a framework on how to reunite the Arab families due to the lack of a written constitution. To date, there is a ban on family reunification, especially towards the Palestinians.

*The Citizenship law continues to draw criticism over the years and there are fears that the law might become permanent. Lack of a written constitution means that Israel is unable to reconcile the blanket ban on family unification between Israeli citizens and residents of the West Bank, Gaza Strip, Syria, Lebanon, Iraq or Iran with its obligations under the Covenant. — IP 10 (A Muslim Lawyer from Afula).*

Eight, participants also pointed out that minorities continue suffering issues of evacuation and demolition to their houses and villages, as evident in recent years in the occupied territories. The participants shared that,

*Arab minorities lack protection from displacement which exposes them to poor living standards. The minorities also lack basic services and infrastructure because they cannot access land and housing like the Jewish citizens. — IP 9 (A Christian Teacher from Yaffo).*

Ninth, Arab minorities also experience discrimination in terms of accessing land and housing compared to Jewish citizens. Participants feel that despite the Israeli Supreme Court's decision in Qa'adan, the operation of private Israel institutions, including the World Zionist Organization, the Jewish Agency, and Jewish National Fund, which are chartered to work solely for the benefit of Jews, in close cooperation with the state, results in inadequate, inferior, and inequitable access to housing and land for Arab citizens of Israel.

*There are limited efforts or interests in Israel to ensure that the "admissions committees" do not discriminate Arab minorities from more than 700 community towns and agricultural lands in line with the decision made by the Israeli Supreme Court. — FGP 15 (A Christian Lawyer from Jerusalem).*

Tenth, the situation of the displaced Palestinians seems to worsen with the changed new land law reforms. The lawyers who participated in this study noted that the 2009 Israel Land Administration Law empowers the State to sell land belonging to Palestinian refugees and Palestinian citizens of Israel who are internally-displaced persons on the private market. Such a law amounts to prejudice on the lands of minority groups in Israel and also violates their housing rights.

*The law on the selling of lands belonging to internally displaced Palestinians further violates the wellbeing of minority groups. — IP 28 (A Muslim Lawyer from Tayibe).*

Eleventh, the participants also shared that they experience a myriad of issues in terms of planning. One of such concerns is that the Arab minorities are hardly involved in genuine decision-making powers in the process of planning of Arab neighborhoods, villages, and towns, in Israel.

*When it comes to planning, the members of the National Council for Planning and Building includes 4 appointed Arab members. But these members do not represent the Arab communities because the genuine representatives are in the High Follow-Up Committee for Arab Citizens in Israel, which forms the largest representative Arab body. Even so, the body is never consulted when the state appoints Arab members to the Arab committee. — IP 28 (A Muslim Teacher from Haifa).*

## **The scope of international law enforcement in Israel**

The participants were also asked whether the lack of a written constitution contribute towards increased disputes in international tribunals among Arab minorities. IP 22 (a Druze Lawyer from Sakhnin) pointed out that while there are cases of Arabs suing Israel in the International criminal courts, the cases often result from the West Bank and Gaza with the help of non-governmental organizations and countries like Turkey. However, it is rare for Arab minorities inside Israel to do the same for fear of retaliation or victimization. Similar sentiments were also shared by FGP 15 (a Christian Lawyer from Jerusalem) and IP 28 (a Muslim Teacher from Haifa).

*It is rare for Arab minorities to go to the International Criminal courts. Instead, calls for International resolutions to be applied due to various actions by the state such as actions over the Gaza border fence emerge from Palestinians in Gaza and the West Bank. — FGP 15 (a Christian Lawyer from Jerusalem).*

## **The quantitative results:**

To examine the first research question, the formulated hypotheses were tested using t-tests and one-way analysis of variance (ANOVA). In addition, regression and correlation analyses were performed to investigate the relationship between dependent and independent variables. In this section, the obtained results and presented, analyzed and discussed in light of the three research hypotheses formulated in this study.

### ***1- Hypothesis 1: The Reasons for the Absence of a Written Constitution in Israel.***

Hypothesis 1 argued that there are several reasons for the absence of a written constitution in Israel, mainly due to the special historical, political, social and cultural context of Israel.

At 95% CI for mean difference, paired T-test for the means between male and female participants was (-1.728, -0.172). T-test of mean difference = 0 (vs  $\neq$  0): T-value = -2.35; P-value = 0.065. Since the P-value is  $>0.05$ , it can be argued that there is no (statistically) significant difference between males and females with respect to perceptions about the reasons for the absence of a written constitution in Israel.

One-way ANOVA was performed to examine the relationship between the lack of a written constitution in Israel and participant perceptions or opinion about the issue. The obtained ANOVA results (shown in Table 8) were significant,  $F(1823) = 0.048942$ ,  $P\text{-value} = 0.027$ . The coefficient of determination for ANOVA was  $p < 0.05$ , indicating that 5% of the variation in the mentioned reasons for the lack of a written constitution in Israel can be explained by the relationship leaving 95% unexplained. Thus, the results from this study are statistically significant and hypothesis 1 was confirmed. That is,

$H_0$ : *There are several reasons for the absence of a written constitution in Israel, mainly due to the special historical, political, social and cultural context of Israel.*

**Table 1: A one-way ANOVA on the reasons why Israel lacks a written constitution.**

<b>ANOVA: Single Factor</b>						
<b>SUMMARY</b>						
Groups	Count	Sum	Average	Variance		
Question 6	200	12650	63.25	441.8166		
Question 7	200	12758	63.79	445.0813		
Question 8	200	12799	63.995	447.814		
Question 9	200	12775	63.875	437.326		
<b>ANOVA</b>						
Source of Variation	SS	df	MS	F	P-value	F crit
Between Groups	65.045	3	21.68167	0.048942	0.027668	2.616089
Within Groups	352635.6	796	443.0095			

In summation, the T-test and ANOVA findings further confirm the correlation results in Table 3 (performed during the survey analysis), which also revealed that there are several reasons for the absence of a written constitution in Israel, and some of the main reasons is due to the special historical, political, social, and cultural context of Israel.

**2- Hypothesis 2: The consequences of the absence of a written constitution on Arab minorities in Israel.**

Hypothesis 2 postulated that *there are major consequences for the absence of a written constitution on the life of citizens from minorities in Israel.*

First, on the general principles about non-discrimination, T-test analysis revealed that at 95% CI, the mean difference between the male and female respondents was (-0.829, -0.089). The T-test of mean difference = 0 (vs  $\neq$  0): T-value = -0.52; P-value = 0.411. In

this case, the P-value is greater than  $>0.05$ , implying that there was no statistically significant difference between males and females regarding their perception about the consequences of the absence of a written constitution on Arab minorities in Israel.

The first ANOVA test results are presented in Table 9 for Survey Questions 10 and 11 which examined how the absence of a written constitution in Israel influences discrimination of Arab minorities in Israel. The obtained ANOVA results (shown in Table 9) were significant,  $F(0.066)$ ,  $P\text{-value} = 0.007$ .

**Table 2: One-way ANOVA on the Impact of the lack of a written constitution on discrimination of Arab minorities in Israel.**

<b>ANOVA: Single Factor</b>						
<b>SUMMARY</b>						
<i>Groups</i>	<i>Count</i>	<i>Sum</i>	<i>Average</i>	<i>Variance</i>		
<i>Question 10</i>	200	12650	63.25	441.8166		
<i>Question 11</i>	200	12758	63.79	445.0813		
<b>ANOVA</b>						
<i>Source of Variation</i>	<i>SS</i>	<i>df</i>	<i>MS</i>	<i>F</i>	<i>P-value</i>	<i>F crit</i>
<i>Between Groups</i>	29.16	1	29.16	0.065757	0.00739775	3.864929
<i>Within Groups</i>	176492.7	398	443.4489			
<i>Total</i>	176521.8	399				

The second ANOVA test results are presented in Table 10 for Survey Questions 13 to 24 which examined how the absence of a written constitution in Israel influences discrimination of Arab minorities in Israel with a specific focus on labor issues, access to the job market, personal development, land, and housing. The obtained ANOVA results (shown in Table 10) were significant,  $F(1.577)$ ,  $P\text{-value} = 0.002$ .

**Table 3: ANOVA results on the impact of the lack of a written constitution on labor rights and access to land ownership.**

<b>ANOVA: Single Factor</b>						
<b>SUMMARY</b>						
<i>Groups</i>	<i>Count</i>	<i>Sum</i>	<i>Average</i>	<i>Variance</i>		
<i>Question 13</i>	200	16743	83.715	14745.14		
<i>Question 14</i>	200	18752	93.76	18711.58		
<i>Question 15</i>	200	20929	104.645	26199.03		
<i>Question 16</i>	200	16686	83.43	13620.67		
<i>Question 17</i>	200	18143	90.715	19223.52		



Question 18	200	19052	95.26	20048.74		
Question 19	200	21729	108.645	29225		
Question 20	200	16596	82.98	12950.6		
Question 21	200	24243	121.215	40847.78		
Question 22	200	24852	124.26	152569.3		
Question 23	200	24529	122.645	35876.2		
Question 24	200	16886	84.43	12370.56		
ANOVA						
Source of Variation	SS	df	MS	F	P-value	F crit
Between Groups	573135.8	11	52103.25	1.577341	0.00298745	1.0792649
Within Groups	78881228	2388	33032.34			
Total	79454364	2399				

The ANOVA findings show that the lack of a written constitution in Israel impacts significantly on various minority the issues related to labor rights. That is, the lack of a written constitution influences access to employment opportunities, the number of Arab minorities who are employed in the civil service, the right to access social security, family and individual income, poverty and wage gaps between minorities and Jewish citizens. Also, lack of a written constitution largely impacts on other issues such as Israel ban on Arab family unification, the demolition and evacuation of the unrecognized Arab villages or houses, lack of access to land and housing, and the negative impacts of existing land reform laws on the state sale of lands belonging to internally displaced Palestinians who never returned to their homes after the civil war. Finally, the ANOVA and T-test results confirm that there is a statistically significant relationship between lack of a written constitution and discrimination in terms of municipality, town, and urban planning in Arab regions, lack of access for Arab minorities to land and housing, lack of access to clean drinking water, and underinvestment of financial resources in Arab schools and education system.

The third ANOVA results examined how the lack of a written constitution impacts on the cultural rights of Arab minority citizens of Israel. The ANOVA findings are presented in Table 11 for Survey Questions 25 to 28. The obtained ANOVA results were significant,  $F(2.122)$ ,  $P\text{-value} = 0.0089$ .

**Table 4: ANOVA results on the impact of the lack of a written constitution on cultural rights.**

<b>ANOVA: Single Factor</b>						
<b>SUMMARY</b>						
<b>Groups</b>	<b>Count</b>	<b>Sum</b>	<b>Average</b>	<b>Variance</b>		
Question 25	200	19052	95.26	20048.74		
Question 26	200	21729	108.645	29225		
Question 27	200	16596	82.98	12950.6		
Question 28	200	24243	121.215	40847.78		
<b>ANOVA</b>						
<b>Source of Variation</b>	<b>SS</b>	<b>df</b>	<b>MS</b>	<b>F</b>	<b>P-value</b>	<b>F crit</b>
Between Groups	164111.6	3	54703.85	2.122935	0.00895877	2.616089
Within Groups	20511352	796	25768.03			
<b>Total</b>	<b>20675464</b>	<b>799</b>				

In summation, the ANOVA results from the three tests correlation results in Table 10 which argued that *there are major consequences for the absence of a written constitution on the life of citizens from minority groups in Israel.*

### **3- Hypothesis 3: The scope of international law enforcement in Israel**

Hypothesis 3 postulated that the enforcement of international law in Israel is very limited. To confirm this hypothesis, ANOVA analysis was performed on Survey questions 29 to 33. The T-test for means between male and female participants was first performed and the mean difference was (-1.432, -1.072). T-test of mean difference = 0 (vs ≠ 0): T-value = -1.64; P-value = 0.753. Since the P-value is >0.05, it was concluded that there is no (statistically) significant difference between males and females with respect to their perceptions about the scope of international law enforcement in Israel.

One-way ANOVA was performed to examine the relationship between the lack of a written constitution in Israel and participant perceptions on the impact of the lack of a written constitution on cultural rights of the Arab minorities. ANOVA in Table 12 shows that the relationship between the five variables in Questions 29 to 33 were significant, F (1.1892), P-value = 0.031. The coefficient of determination for ANOVA was  $p < 0.05$ , indicating that 5% of the variation in the impact on cultural rights due to the lack of a written constitution in Israel can be explained by the five factors, leaving 95% unexplained. Thus, the results from this study are statistically significant and hypothesis 3 was confirmed. That is,

H<sub>3</sub>: *The enforcement of international law in Israel is very limited*

**Table 5: ANOVA results on the impact of the lack of a written constitution on cultural rights.**

<b>ANOVA: Single Factor</b>						
<b>SUMMARY</b>						
<i>Groups</i>	<i>Count</i>	<i>Sum</i>	<i>Average</i>	<i>Variance</i>		
<i>Question 29</i>	200	19052	95.26	20048.74		
<i>Question 30</i>	200	21729	108.645	29225		
<i>Question 31</i>	200	16596	82.98	12950.6		
<i>Question 32</i>	200	24243	121.215	40847.78		
<i>Question 33</i>	200	24852	124.26	152569.3		
<b>ANOVA</b>						
<i>Source of Variation</i>	<i>SS</i>	<i>df</i>	<i>MS</i>	<i>F</i>	<i>P-value</i>	<i>F crit</i>
<i>Between Groups</i>	243214.8	4	60803.7	1.189238	0.031388	2.380876
<i>Within Groups</i>	50872634	995	51128.28			
<i>Total</i>	51115849	999				

In summation, the t-test, ANOVA, and regression results confirm that when it comes to issues faced by Arab minorities in Israel, international law has little impact on how the state applies its laws, specifically the attainment of basic human rights such as employment, access to land, and housing.

#### **4. Discussion:**

The results obtained from the interview sessions, focus-group discussions, and survey questionnaires all reveal three main issues. The first major issue is that since its foundation in 1948, Israel lacks a written constitution because of several factors that can be summarized into historical, political, social and cultural contexts. According to Adalah (2011), these issues were largely tied to the Jewish and Arab conflicts make it difficult to adopt a single document to address the various conflicts between the two factions. For instance, Israel did not adopt the constitution initially because it was uncertain about the outcome of the independence war with its three Arab neighbors namely Egypt, Syria, and Jordan. Moreover, there was uncertainty about how the Palestinians would perceive Israel after the war. External factors such as the Cold war and the 1967 Six-Day war also delayed the constitutional implementation in Israel since it was unclear which side Israel was going

to choose between the United States and the Soviet Union. The border issues also contributed to lack of a constitution in Israel since the initial leaders were concerned that having a constitution would result in the explicit definition of borders which could have made it difficult to shift new boundaries, for example, in controlling East Jerusalem and the Golan Heights.

The second major observation is that the absence of a written constitution in Israel has different negative impacts on the daily well-being of the Arab minorities in Israel in terms of exacerbating violations of their basic rights. The participants shared that lack of a written constitution negates their daily lives in terms of exposing them to regular discrimination and marginalization when acquiring land and owning a house. The use of national resources and the military further advances the negative agenda of oppressing and discriminating Arab minorities on different wellbeing measures such as access to economic benefits, better education, access to public services, and securing housing loans. The criteria of serving in the military as a precondition of achieving economic benefits discriminate against Arab and violate their right to equal enjoyment of benefits. Results also revealed that minority groups lack equal access to job opportunities and are under-represented in the labor market compared to Jewish citizens. Participants also shared that the lack of a constitution exposes them to challenges of lack of social security, gets lower income than Jewish citizens, get exposed to constant threats of evacuation and home demolitions, difficulties in accessing land and housing for internally displaced Palestinians, are not prioritized in urban planning, and their education systems largely remain under-funded.

The third findings revealed that the scope of international law, especially when considering human rights, is limited in its enforcement in Israel. For instance, despite the challenges which Arab minorities undergo, there is no rise in the number of international petitions at the International Criminal Court to address their grievances. Participants shared their fears that they are concerned about potential state retaliation against Arab Israel citizens who may sue the state at the international court concerning issues on land and house ownership. Besides, Israel lawyers from the Arab sector do not recourse Arab minority problems in the international disputes for similar fears shared by the participants. As such, minority lawyers from the Arab sector have limited options in approaching the

international legal mechanisms to address challenges encountered by Arab minority citizens in Israel. Despite these concerns, the Arab minority citizens considered themselves members of the international community and remained optimistic that international laws would support the interests of Arab minorities in Israel.

## **γ5Conclusion**

The main conclusions that can be drawn from this study show that: there are several reasons for the absence of a written constitution in Israel, mainly due to the special historical, political, social and cultural context of Israel. One of the reasons shared by the participants related to initial uncertainty about the state of Israel. Another reason why Israel does not have a written constitution may be attributed to the dynamics of the Cold War. At the time of creating the State of Israel were from Eastern Europe and supported socialist ideas although liberalism was also strong. Creating a constitution would have forced Israel leadership to prematurely choose either the East or the West. The participants expressed that there was confusion at the time about the status of the Arabs. One of the main reasons was that it was not clear how many Arabs would live within Israel borders, or how many had stayed after the breakout of the war. Religion also influenced constitutional debates where the Jewish people consider the Torah as supreme law and having a constitution could have been considered blasphemy to most religious individuals. Having a constitution would have also addressed politically-sensitive issues such as the role of religion and Jewish identity in Israeli life. Therefore, historical issues such as ethnic diversity, politics, culture, and social matters were noted to influence the constitutional debate in Israel. The eventual outcome has been constant rejection due to lack of consensus or due to ideological reasons such as the rigidity of a written constitution and the democracy which may result from parliamentary sovereignty.

The study also concluded that the lack of a constitution negatively affects their rights because they are discriminated against in Israel. Discriminatory laws such as the ones where minorities oppress the minority groups and disadvantage them than their Jewish population. The right to equality and freedom from discrimination is not explicitly guaranteed in Israeli law as a constitutional right, nor is it protected by statute. Participants shared their fears that the use of national resources and the military has been legitimized as a mechanism from discrimination. Strong sentiments were shared on how such

initiatives discriminate against Arab citizens of Israel in terms of limiting their social and economic rights. The vast majority of Arab minority citizens of Israel are exempted from military service and do not serve in the Israeli army for historical and political and historical reasons. Therefore, the use of this criterion as a condition for awarding economic benefits discriminates against Arab minorities violates their right to equal enjoyment of various public services. Arab minorities also shared that they do not have fair access to employment opportunities, they are under-represented in the civil service, the increasing wage gap, and discrimination in terms of accessing land and housing compared to the Jewish citizens.

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