

Why Don't Arab Citizens Join the Protest Movement against the Proposed Judicial Overhaul?

Mohammed S. Wattad, Ephraim Lavie, Mora Deitch, and Meir Elran | No. 1703 |
April 3, 2023

Since the outbreak of the widescale, unprecedented public protests sparked by the government's proposed judicial overhaul, the Arab public has avoided any active or mass involvement in the events. This is a noteworthy phenomenon, because Arab citizens of Israel, who comprise one fifth of the country's population, might well be the first to be adversely impacted, individually and collectively, if and when the judicial overhaul is enacted. The occasional calls made by a few Arab leaders to take part in the protest have generally been met with apathy. This represents a significant prevalent sense of Arab indifference, if not alienation, vis-à-vis the defining events underway throughout the country, which have therefore been cast as a virtually exclusive Jewish agenda. The principal question is to what extent this phenomenon represents a withdrawal by the Arab public in Israel and its leaders from the trends of social, economic, and political integration that have characterized it in recent years.

Thus far, the vast majority of the Arab public has distanced itself from the mass protests against the government's proposed judicial overhaul – notwithstanding the significance of the proposed changes for the Arabs' status in Israel and the deep concern within the Arab public over a possible worsening of its status as a result. In a survey conducted by the Israel Democracy Institute in late February, 87 percent of the Arab citizens expressed fears that their rights might be in jeopardy should the judicial changes proposed by the government be approved.

Leaders of the Arab parties have occasionally expressed their objection to the government's judicial initiative, and even called upon the Arab citizens to take part in the protest. A few have themselves attended demonstrations. The chairman of the Arab Joint List, MK Ayman Odeh, recently intensified his call to the Arab public to participate in the protest and took part in a demonstration in Tel Aviv on March 11, where he declared that "we shall continue working in full force to bring our public to the important demonstrations." In a demonstration held in Wadi Ara on March 17, he asserted that the interest of the Arab public mandates the success of the anti-government protest, and therefore it must be an integral part of the struggle. On other occasions MKs Ayman Odeh and Dr. Ahmed Tibi (chairman of the Arab Ta'al Party) declared that the participation of Arab citizens in the demonstrations is necessary for the preservation of the status of the Supreme Court, which has, over the years, prevented the disqualification of Arab parties from participating in the general elections. The chairman of the Arab Ra'am party, MK Mansour Abbas, has called for a dialogue, under the auspices of the President, while at the same time calling for the continuation of the protest.

Public and academic figures, activists in civil society organizations, and Arab and Jewish publicists continue to urge the Arab public to take part in the demonstrations, and even to figure among the protest leaders, in order to end the branding of the protest as a left wing Jewish phenomenon. Joint Arab-Jewish civil society organizations have also called for holding joint Arab-Jewish demonstrations at Arab towns and villages. More recently, there have been protest rallies by Arabs at Kfar Manda and Wadi Ara. In addition, a campaign launched in early March by the Abraham Initiatives and other organizations has called upon the Arab public in Israel to join the protest, lest it be stripped off its fundamental rights. Another initiative by Abraham Initiatives promoted a meeting between prominent Arab public figures and the President, in order to emphasize the importance of the stance toward the Arab public, especially at this time – in part with the apparent opportunity to take part in the consolidation of broad agreement among the general public regarding the characteristics defining the country's political regime.

Nevertheless, the overall picture remains: The Arab public is removed from the protest movement and refrains from playing an active role in the demonstrations. It seems that lack of trust in state institutions continues to shape the mindset of the Arab public and prevents it from participating in the protests. There may be several additional concrete reasons, including the focus of the protests on the domestic political which include the end of the occupation and discrimination against them. This may encourage the Arab sector to distance itself from the protest. The fact that President Herzog, in his first speech about the judicial overhaul (February 12, 2023), failed to mention the Arab minority has been seen as yet more evidence that the government's proposed judicial changes and the public protest against it are an intra-Jewish cause. This view has been amplified by the tendency of protest leaders and demonstration organizers to minimize Arab participation, prevent the display of Palestinian flags, and discourage any reference to the Israeli-Palestinian conflict. To the Arab public, this reflects a message that the protest organizers are not truly interested in seeing Arabs by their side at the demonstrations.

The civil rights of Arabs in Israel, primarily the right to equality, have thus far not enjoyed steadfast legal and judicial protection, neither through regular or Basic Laws, nor to the fullest extent in Supreme Court rulings. The current government's initiative, if and when implemented, might further aggravate the status of the Arab population. Nonetheless, of all governmental agencies, it is the Supreme Court that has protected the individual rights of the Arabs in Israel – even if not to the utmost. According to the INSS National Security Index surveys polls, the level of confidence demonstrated by the Arab public in Israel in the Supreme Court has dropped significantly since 2017 (when 75 percent felt a high level of confidence), plummeting to a low of 42 percent in 2022. This may be attributed to the perception that the Supreme Court does not provide adequate protection for the rights of Israel's Arab sector, especially when it comes to their collective rights as a national minority. Consequently, Arab citizens have been left with a sense of disappointment in the Supreme Court's performance, for instance, when it unanimously approved the Basic

Law: Israel as the Nation-State of the Jewish People. In addition, Arab representation in the judicial system is relatively low: Arabs constituted only 8.4 percent of all judges in 2019, and only one out of the 15 justices of the Supreme Court is an Arab.

Still, the level of trust of Israeli Arabs in the Supreme Court is still relatively high, compared to other governmental institutions. Indeed, there have been several important Supreme Court rulings, such as in the Kol Ha'Am case in the 1950s, which protected the freedom of expression of the Arab newspaper *al-Ittihad*. It was followed by a series of other rulings further protecting the civil and political rights of the Arab minority. Among the most notable were in the case of Samir Ka'adan, which required equal allocation of land in communal settlements; the ruling in the case of the Adalah organization regarding signage in Arabic in mixed cities; and the ruling in the case of Mohammed Bakri concerning artistic freedom of expression. Worth noting as well is the Supreme Court ruling to revoke or deny approval of Central Elections Committee decisions to ban the participation of Arab parties or Arab candidates in Knesset elections.

The current government's judicial initiative raises considerable concern that it might severely harm the Arab public, jeopardizing its standing to the extent of literally shutting the court's gates to human rights organizations. Legislation in the spirit of the proposed judicial overhaul would allow the government to promote discriminatory policies against the Arab public without adequate judicial supervision and restraint. Specifically, should discriminatory policy be anchored in legislation, it cannot only invoke the claim of "unreasonableness," and it could only be abolished by a unanimous decision of all the justices of the Supreme Court. Even then, the legislators, controlled completely by the government, would have the option of overriding the Court's ruling, or even blocking it in the first place, by designating a discriminatory piece of legislation as a "Basic Law." This relates to individual rights as well as to collective rights, such as the right to use the Arabic language in the public sphere, or exercising the political constitutional right to be elected; note that a bill limiting this right has already been presented to the Knesset.

In conclusion, the current state of affairs is complex and poses multiple risks to Israeli democracy, particularly with regard to the rights of the Arab public. On the one hand, there is considerable fear of the negative implications of the government's initiative regarding the judiciary. On the other hand, it is evident that the Arab citizens have refrained, so far, from protesting against this danger to Israeli democracy, which might position them as a defenseless minority. In this context, the passive and distant attitude of the Arab political leadership, including that of the Arab Supreme Follow-Up Committee, seems rather striking.

As difficult as it may be to assess at this point if and how the protest in Arab society will evolve, it seems that the distant and weak Arab support signifies that the Arab population is still far from realizing that "sitting on the fence" is contrary to its basic interests, and might even prove detrimental to its cause as a large minority in the country. Joining the protest would serve as proof that the Arab citizens of Israel are not turning their back on the concept of integration into the economic, social, and political fabric of Israeli society, which has characterized it for a long period of time. Massive and active Arab participation in the collective protest would not only add yet another layer to the protest movement, but also strengthen the integration of the Arab public into Israeli society and overall life. In contrast, continuous avoidance of participation in the public protest may indicate that the Arab public and its leaders are giving up on their integration in the State of Israel.

Editors of the series: Anat Kurtz, Eldad Shavit and Judith Rosen