Translated from the original Hebrew by Adalah

Expert Opinion

Expert's name: Sammy Smooha

Place of employment: Retired

I, the undersigned, was asked by Adalah – The Legal Center for Arab Minority Rights in Israel, to provide my professional opinion on the "repercussions of disqualifying an Arab political party or one of its candidates in the elections for the 19th Knesset."

I am providing this opinion in lieu of testimony in court and I hereby declare that I am aware that my signed opinion is considered sworn testimony in court under the directives of criminal law regarding perjury.

Education: Ph.D. in Sociology from UCLA

Professor Emeritus of Sociology at the University of Haifa

Experience: Expert in Jewish-Arab relations in Israel in comparative perspective

Expert in majority-minority relations and societal rifts

Researcher of Israeli society

This is my opinion:

Repercussions of disqualifying an Arab political party or one of its candidates in the elections for the 19th Knesset

Summary

The disqualification of an Arab political party or its non-participation in the Knesset elections due to the disqualification of one of its candidates is liable to lead the party to call on Arabs to boycott the elections, accelerate the downward trend in the participation of Arab citizens in elections for the Knesset, significantly reduce their representation in the Knesset, diminish their confidence in the democratic regime and the Knesset, push them to further withdraw from parliamentary politics, prompt the Arab leadership and Arab public to view this step as a crossing of a red line in terms of the state's attitude toward them, and create unrest and outbursts. The political rift would widen because the center-left bloc, which includes the Arab parties, would view the disqualification as a political conspiracy to weaken it. These are the developments that would harm the legitimacy of the regime and the image of Israel, both domestically and internationally. Despite being deeply divided, Israel has until now maintained relative quiet and stability in internal Jewish-Arab

relations, but governmental disqualification of an Arab representative entity is liable to accelerate the deterioration of these relations, a deterioration that has intensified since the murder of Rabin and, in particular, since the events of October 2000.

Jewish-Arab relations in Israel

Israel is a deeply divided society with an Arab minority that maintains a separate community from the Jewish majority, is not part of the government, is concentrated in the lower socio-economic classes, suffers discrimination in various fields of life and is ideologically at odds with the state and the Jews. In their language, culture, identity and historical heritage, the Arab citizens are part of the Palestinian people and the Arab world, which are still in conflict, sometimes violently, with Israel. They view themselves as indigenous, with rights to the country, but they are not its rulers. There is deep-seated mistrust between them and the Jews and the state. This is a situation that in other societies — such as Sri Lanka, Northern Ireland, Serbia-Herzegovina, Serbia-Kosovo, Turkey, Sudan and Iraq — led to civil war and political chaos.

Since the murder of Rabin, there has been a steady deterioration in Jewish-Arab relations. The period of the second Rabin government is considered a sort of golden age in these relations. The Oslo Accords, the elimination of some of the discrimination against Arabs, and an attitude of respect toward the Arab leadership and public instilled among the Arab citizens a sense that a new Middle East was emerging and that their status in Israel was improving and worth accepting. Rabin's murder put an end to their dreams and to the foreign and domestic policies that benefited them. They were severely disappointed by the Barak government, which they had viewed as a continuation of the Rabin government. The disturbances of October 2000 were not only a response to the police suppression of the protest, but also an expression of the shattering of the hope that had been fostered by the Rabin government. The deterioration in the relations between Jews and Arabs has continued as a result of growing economic hardship, the diplomatic standstill, the Second Lebanon War, two Gaza wars and, since 2009, numerous legislative initiatives and a number of laws that the Arabs view as anti-Arab and antidemocratic.

Despite the depth of the rift and the deterioration since the mid-1990s, there is almost complete quiet in majority-minority relations in Israel. Within the Green Line, there is almost no violence between Arabs and Jews, and there is no violence between the Arabs and the state. The Arabs have not become a fifth column, have not joined the Palestinian intifada, have not launched a popular rebellion and have not taken actions to disturb the peace and public security. They participate in building the country and in public life, and do not seek to undermine the state's existence. The quiet and stability in relations reflect the complexity of Jewish-Arab coexistence in Israel. Besides the forces that distance Arabs from Jews and from the state, there are also strong forces that bring them together. These include the possibility of leading a modern lifestyle, the services and allowances provided by the welfare state, the rule of law and the basic protection of human rights, as well as the Israelization process that makes the Arabs bilingual and bicultural, with typical Israeli

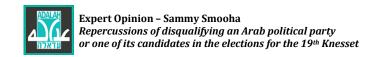
aspirations and with expectations to be treated equally to Jews. The Israelization changes the essence of the Palestinization of the Arab citizens in that it turns them into a unique segment within the Palestinian people living in Israel; their fate and future is linked to Israel and they are greatly affected by its ups and downs. Consequently, the Arab citizens have become stakeholders in the existence, unity and prosperity of the State of Israel.

The unifying forces include broad agreement between Jews and Arabs on the terms of coexistence in Israel, including a two-state solution for the Palestinian question, fidelity to the state, civil equality, exemption from mandatory state service, the granting of collective ethnic rights (linguistic, cultural and religious), and integration without assimilation. However, the core of this cohesion and the strength of Jewish-Arab relations are based on the democratic regime that equips the Arabs with individual and collective rights, allowing them to become involved in public life and to conduct a vigorous struggle to advance their national goals without government repression. These goals include: eliminating discrimination and exclusion, balancing the character of the state, and non-violent, civil support for establishing a Palestinian state alongside Israel. Without exercising Israeli citizenship and without the Israeli democracy, the Green Line would be erased and the difference between the conduct of Palestinians on the two sides of the Green Line would be severely eroded.

The relative tranquility and stability are also attributable to the fact that the Arab minority and the state have not crossed red lines. Each side has refrained from taking steps that the other side defines as egregious and as serious violations of the modus vivendi that has developed between them. The crossing of a red line by one side is liable to trigger a harsh response or even the crossing of a red line by the other side. The Arabs do not enlist in the "Palestinian resistance" against Israel, do not engage in or encourage the use of terror, do not disturb the public order, do not boycott Israel, do not withdraw from parliamentary politics, do not transform the Higher Arab Monitoring Committee [The High Follow-up Committee on Arab Citizens of Israel – ed.] into an "Arab parliament" by instituting general elections for it, and do not launch a campaign against Israel in foreign countries. And on its part, the state does not violate the Arabs' basic rights, does not conduct mass expropriation of Arab lands, does not impose military rule on Arab districts, does not outlaw Arab national political parties or movements, does not prohibit Arab protest and does not exert force to suppress it, does not impose mandatory military or civil service, and does not limit petitions to the Supreme Court to a minimum. The democratic game defines and sharpens these mutual red lines.

Arab politics in Israel

Thanks to the Israeli democracy, Arab politics have developed and are conducted via a number of Arab political parties: One of these parties is Jewish-Arab, one is nationalist with an Islamic element and one is purely nationalist. These are always opposition parties that are not invited and are unwilling for ideological reasons to join government coalitions. The Arab voters, 82% of whom voted in the 2009 Knesset elections for these [Arab or Arab-Jewish - ed.] parties, do not receive real value for their vote — no change in policy, no influence on the allocation of budgets and no



sense of partnership in the government and in the state. Thus, there has been a steady decline in the Arab voting rate, reaching a low of 53% in the last elections, compared to a national average of 65% and an estimate of about 75% among Jews living permanently in Israel who are eligible to vote.

The process of deterioration in Jewish-Arab relations is also reflected in the erosion of the legitimacy of the political system in the Arabs' eyes. In representative surveys of the adult Arab population that I conduct annually, there are many findings that indicate this. For example, 63.4% of the Arabs in 2011 expressed concern about "a serious violation" of their rights. The percentage of Arabs who believe that "despite its shortcomings, the regime in Israel is also democratic for Arabs" fell from 63.1% in 2003 to 55.8% in 2011, and the percentage supporting a boycott of the Knesset elections as a legitimate means of protest increased from 32.8% to 40.3%, respectively. The Arab citizenry's lack of confidence in the Knesset rose from 58.3% to 64.6% during those years. The percentage of Arabs who would vote "yes" in a "referendum on a constitution that defines Israel as a Jewish and democratic state and ensures full civil rights for Arabs" declined from 70.9% in 2006 to 57.4% in 2011.

Despite the erosion of confidence in the Israeli democratic system, these findings show that there is still a majority among the Arab citizens who have faith in the democratic process and are committed to it. The Arab public also displays a realistic approach to its status as a minority in Israel. The 2001 survey found that 57.7% of the Arabs accept Israel as a state with a Jewish majority, 56.6% as a state whose dominant language is Hebrew, 51.1% as a state whose culture is Hebrew-Israeli and 57.9% as a state whose day of rest is Saturday. 68.3% of the Arabs prefer to live in Israel rather than any other state in the world. This acceptance of Israel's reality compels the Arabs to acclimate and adapt, but does not confer justification for the state's Zionist mission. While, as noted, 56.6% come to terms with a Jewish majority, 63.5% of them believe that it is not justified for Israel to continue to maintain a Jewish majority. The pragmatism of the Arab public is also reflected in a majority of 73.5% who in 2011 expressed a desire for "Arab political parties to join government coalitions." Here too, this represents a decline from 80.7% in 2003. A large majority also supports fielding a joint slate of Arab parties in the Knesset elections; the assumption is that this would increase the Arabs' representation and their influence on the government.

The Arab commitment to the Israeli democracy is also reflected in the activities of the Arab leadership that are considered improper in the eyes of the Jews. For example, in the Future Vision documents, Arab intellectuals and academics harshly criticize Israel as a non-democratic Jewish state, but do not threaten that the Arabs will turn to non-democratic means if their demands are not met. The Future Vision is also confined to Israel within the Green Line, and does not envision one state from the sea to the Jordan. The Arab leadership is also conducting a very strong campaign against civilian service for young Arabs, but it is doing this via democratic means and is refraining from inciting against and ostracizing those who volunteer.

Possible results of disqualifying an Arab political party or an Arab candidate

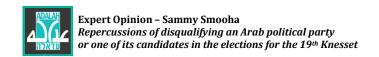
There is reason to assume that the disqualification of an Arab candidate who has a realistic slot in an Arab party's Knesset list, and who has not been convicted of an offense pertaining to public security or state security, would lead that party to decide not to participate in the elections. Therefore, disqualification of the candidate is tantamount to disqualifying the party itself. This is because the disqualification would not be accepted by this party and would also be rejected by the other Arab parties and by the broad Arab public. Such disqualification could have a number of serious consequences.

The direct and immediate harm would be to the Arab public. The right to vote and to be elected would be harmed. The party that is disqualified or does not participate is liable to call upon the Arab population to boycott the elections and many would heed this call, thus accelerating the downward trend in the Arab voting rate. It is difficult to estimate the anticipated decrease, but in any case a new situation would develop in which, for the first time since the founding of the state, only a minority of eligible Arab voters would exercise their right to vote for the Knesset. (It should be noted again that in the 2009 elections, only 53% voted.) There is already a precedent for this: 82% of the Arabs did not vote in the elections for prime minister in 2001. They responded to a call to refrain from voting for Barak, whom they regard as responsible for the killing of 13 Arab demonstrators during the events of October 2000. A call for a boycott would again lead to a significant decline in Arab representation in the Knesset.

Over time, this development is liable to quicken the ongoing deterioration in the Arabs' attitude toward the state. Among the Arab population, there is liable to be a dangerous decline in the faith in democracy, despair of parliamentary politics and withdrawal from it, a focus on extra-parliamentary politics and an intensification of the struggle. For a substantial part of the Arab elite and public, an Arab party's disqualification or non-participation in the elections would be regarded as a crossing of a red line by the state and might remove their reluctance to cross red lines themselves. The Arab citizenry's process of accepting the Jewish character of the state, if not its Zionist objectives, would come to a halt. The delicate coexistence, the quiet and the relatively stability characterizing Jewish-Arab relations since the founding of the state are liable to be broken.

A significant decline in the Arabs' voting rate for the Knesset would harm the center-left bloc to which the Arab parties belong. This harm would be regarded as a conspiracy devised by the right and would not be accepted as legitimate. The political rift that is already severe would further intensify. The criticism at home and abroad of Israeli democracy as based on the tyranny of the majority and as lacking in suitable checks and balances would increase, eroding the legitimacy of the State of Israel. The imbalance between the state's Jewish character and its democratic character would worsen and generate alienation and bitter disappointment among wide circles in the Jewish public whose discourse is democratic, liberal, egalitarian and humanistic in the framework of a Jewish and democratic state.

Israel needs to mend the profound rift between its Arab and Jewish citizens. The non-participation by Arab parties in the Knesset elections due to their



disqualification by the government would be a serious retreat from democracy and would deliver a harsh blow to Arab-Jewish coexistence. A deepening of the rift and a continuation of the decline in Jewish-Arab relations would also contribute to the vicious cycle we find ourselves in. It would further discourage Jews from seeking to bring Arabs closer to the state, from pursuing civil equality, from including Arabs in the government, from a desire to bring Arab parties into government coalitions, from maintaining quiet and stability in majority-minority relations, from improving the quality and strength of the democracy and from forging a shared Israeliness.

Enclosed: (attached as an appendix): a brief CV and list of publications.

JULIO INO	December 16, 2012
Signature	Date

Appendix

December 2012

Sammy Smooha Brief Curriculum Vitae and Selected List of Publications

Brief Curriculum Vitae

Electronic mail: ssmooha@univ.haifa.ac.il

Personal website: http://soc.haifa.ac.il/~s.smooha/

Degree: Ph.D., Sociology, UCLA, 1973

Professor Emeritus of Sociology, University of Haifa, since October 2011

Professor, University of Haifa, 1990-2011

Research Fellow, Frankel Institute for Advanced Judaic Studies, University of Michigan, 2011-12

Professor in the Sociology Department and Research Fellow in the Schusterman Center for Israel Studies, Brandeis University, fall 2010

Senior Research Fellow, Jennings Randolph Program for International Peace, United States Institute of Peace, Washington, DC, 2009-10 President of the Israeli Sociological Society, 2008-10

Israel Prize for Sociology, 2008

Dean of Faculty of Social Sciences, University of Haifa, 2006-09

Posen Visiting Professor in Judaic Studies and Sociology, University of Michigan, 2004-05

Director of the annual "Index of Arab-Jewish Relations in Israel", since 2003

Visiting Professor, Brown University, 1987-89, 1992, 1994

Chairman of the Department of Sociology and Anthropology, University of Haifa, 1983-

Visiting Professor, State University of New York at Binghamton, 1980-81 Assistant Professor, University of Washington, Seattle, 1971-73

Selected List of Publications

Selected Books

Index of Arab-Jewish Relations in Israel 2004. Haifa: The Jewish-Arab Center, University of Haifa; Jerusalem: The Citizens' Accord Forum between Jews and Arabs in Israel; Tel Aviv: Friedrich Ebert Stiftung. 2005, English 132 pages, Hebrew 100 pages.

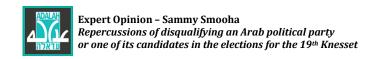
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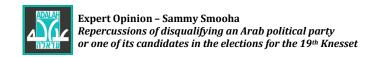
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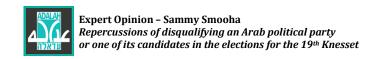
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- "The Model of Ethnic Democracy: Response to Danel". *Journal of Israeli History, Politics, Society, Culture* 28, 1 (March 2009): 55–62.
- "Israeli Sociology: Academic and Professional: Gesture to Baruch Kimmerling". *Sociologia Yisraelit* 10, 2 (2009): 440-444. (Hebrew).
- "Comparative Citizenship: A Restrictive Turn in Europe and a Restrictive Regime in Israel: Response to Joppke". Law & Ethics of Human Rights 2, 1 (2008): 1-12.
- "Has Indeed the Occupation of the Territories Permeated Inside? The Modest Contribution of Israeli Sociology to the Study of Occupation Issues". *Sociologia Yisraelit* 9, 2 (2008): 255-262. (Hebrew).
- "The Mass Immigrations to Israel: A Comparison of the Failure of the Mizrahi Immigrants of the 1950s with the Success of the Russian Immigrants of the 1990s". *Journal of Israeli History, Politics, Society, Culture* 27, 1 (March 2008): 1–27.
- "Jewish State and Jewish Democracy: A Review Article of Alexander Yakobson and Amnon Rubinstein's Israel and the Family of Nations: Jewish Nation-State and Human Rights". *Mishpat Umimshal* (Law and Government in Israel) 10, 2 (November 2006): 13-24. (Hebrew).
- "Jewish Ethnicity in Israel as a Persistent Real Phenomenon (Review Article)". *Iyunim Bitkumat Israel* 13 (2003): 413-425. (Hebrew).
- "Types of Democracy and Modes of Conflict-Management in Ethnically Divided Societies". *Nations and Nationalism* 8, 4 (October 2002): 423-431.
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- Sammy Smooha and Yochanan Peres. "The Dynamics of Ethnic Inequalities: The Case of Israel". *Social Dynamics* 1, 1 (1975): 63-79. Reprinted in Ernest Krausz (ed.), *Studies of Israeli Society: Migration, Ethnicity and Community*. Vol. 1. New Brunswick, NJ: Transaction Book, 1980, pp. 165-181.

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- "Israeli Sociology's Position in International Sociology and the Challenges It Faces". In Facing an Unequal World: Challenges for Sociology, Volume 2, Asia, edited by Michael Burawoy, Mau-kuei Chang and Michelle Fei-yu Hsieh. Proceedings of the 2009 Conference of the Council of National Associations, International Sociological Association. Taipei: Institute of Sociology, Academia Sinica. 2010. Pp. 71-96.
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- "The Viability of Ethnic Democracy as a Mode of Conflict-Management: Comparing Israel and Northern Ireland". Pp. 267-312 in *Comparing Jewish Societies*, edited by Todd Endelman,. Ann Arbor, MI: University of Michigan Press, 1997.
- "Part of the Problem or Part of the Solution: National Security and the Arab Minority in Israel". In Avner Yaniv (ed.), *National Security and Democracy in Israel*. Boulder and London: Lynne Rienner Publishers, 1993, pp. 105-128. Also appeared in Benjamin Neuberger and Ilan Ben-Ami (eds.), *Democracy and National Security in Israel*. Tel Aviv: The Open University of Israel. 1996. Pp. 493-517. (Hebrew).