

## We the (Jewish) People

### Introduction:

Israel set a goal of creating a constitution by October 1<sup>st</sup>, 1948. Believe it or not - it is almost 70 years later - and we're *still* working on it. The current "Constitution Committee" believes that since Israel is the democratic state of the entire Jewish people, it is appropriate to invite the worldwide Jewish community to provide their input on central constitutional issues, particularly regarding those questions, which involve the relationship between Israel and the entire Jewish people. This program addresses the "Israeli Constitution phenomenon" and the central issues thereof.

### Goals:

- To introduce participants to the discussions taking place in Israel about creating a constitution and to provide the historical background to these debates.
- To consider some of the core issues that the constitution seeks to address (especially those that relate to the character of the State).
- To explore what other thinkers in Israel have suggested as solutions to such issues.
- To consider the role of Diaspora Jewry in these debates.
- To develop an understanding of the role of Diaspora Jewry in these debates.

Participants: Educators/Rabbis/Adults in advanced learning settings

Duration: 90 minutes

### Materials:

- Whiteboard/flipchart and markers
- Copies of relevant sections of the constitution draft



**Method:**

**Background** - (8 mins)

Israel doesn't have a written constitution. Instead it has a series of Basic Laws and a Court that rules constitutionally. How did this situation come about? In the Declaration of Independence it says.

WE HEREBY DECLARE that, with effect from the moment of the termination of the Mandate being tonight, the eve of Sabbath, the 6th Iyar, 5708 (15th May, 1948), and until the establishment of the elected, regular authorities of the State in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948, the National Council shall act as a Provisional Council of State, and its executive organ ... shall be the Provisional Government of the Jewish State, to be called "Israel".

Looks like we missed that deadline. Why? Back in 1948 when the state was established Ben Gurion couldn't get a consensus. Instead the Knesset adopted a compromise, introducing the idea of a constitution "by chapters" instead of one formal written document.

*The First Knesset instructs the Constitution, Law and Justice Committee to prepare a draft State Constitution. The constitution will be built chapter by chapter, in such a way that each will constitute a separate Basic Law. The chapters shall be presented to the Knesset when the committee completes its work, and all the chapters together shall comprise the Constitution of the State.*

Since then Eleven Basic Laws have been enacted, dealing with two main issues: the powers of the governing bodies, and basic human rights. These basically form the constitution and the Supreme Court uses these as a basis for Judicial Review - whether a law is constitutional or not.

Many people believe that this situation is not sufficient. It was only designed as a stopgap until a full constitution could be drafted. Also it is incomplete, and not well known with no full bill of rights. Many issues



such as “Israel as the State of the Jewish People” are not touched on at all. The power of the Court in this system is also controversial.

The Committee for Constitution, Law and Justice has therefore been working to draft a full constitution. In 2006 they published the draft and it is currently in a consultation stage. This is not the first attempt to draft and pass a constitution. However the committee aims to build a consensus through in-depth consultation to increase the chances of it being passed.

**Brief discussion: Why a Constitution** (10 mins)

Does Israel need one? Would we be better without one? What is the goal of a constitution? (Remember not all countries have constitutions, e.g. UK).

What issues should the constitution cover?

Hold a brainstorming session and record ideas on a board.

Some issues that are likely to come up are:

- Bill of rights
- Protection of minorities
- Jewish nature of the State
  - Language
  - Calendar
  - Shabbat
  - Who is a Jew?
  - Status of Diaspora Jews
- Role of the different branches of Government
- Symbols of State
- Citizenship
  - Who is entitled to it?
- Capital City

**Small group discussion** (25 mins)

Break into two to five sub groups determined by the size of the entire group. Each group receives an instruction page. After about 10 minutes hand out to each group a sheet with examples from the different drafts of the constitution on this issue. The first example is from the recent draft constitution. The second is from a suggested Constitution prepared



## *Educational Web Kit – Israel's 70th Year of Independence*

by Adalah - the Legal Center for Arab Minority Rights in Israel (except when Adalah has no suggestion).

Below are five issues. You need only use as many issues as there are subgroups.

- Citizenship - Who is an Israeli? Who is eligible to become one?
- The character of the State - Democratic? Jewish? State of all its citizens? How do we define these different terms?
- State Symbols
- Religion and State
- International Jewish Community

Your goal is to decide how (if) this issue should be addressed in the Constitution and what the Constitution should say about it. Try to come up with a suggestion that is just, practical and likely to gain acceptance from most sectors of society.

Remember that the demographics, history, culture and circumstances of Israel are different from that of North America and the solutions that work in one country may not necessarily work in another.

### **Feedback** (25 mins)

What issue did you discuss?

What were the basic points of view to consider?

What constitutional proposal did you come to?

Further facilitator prompt questions - other participants can also ask questions:

- What problems did you have reaching a conclusion?
- Was your proposal the same as or different from the proposal of the committees you were given?
- How likely to do you think it is that your conclusion could be passed?
- Who might object?

### **Discussion** (10 min)

What role should Diaspora Jews have in this discussion? On one hand they are not Israeli citizens. On the other hand there is no doubt that they are



affected by questions such as who is a Jew and the Jewish nature of the State.

The current “Constitution Committee” believes that since Israel is the democratic state of the entire Jewish people, it is appropriate to invite world Jewry to provide their input on central constitutional issues, particularly regarding those questions, which involve the relationship between Israel and the entire Jewish people.

**Conclusion: What will change and what won't** (2 min)

Issues are very complicated and hard to resolve. They impact on our very sense of self.

This recent version probably has more chance of getting through than any previous version. It is happening without the hype, but with serious attempts at consensus building and over several years of discussion. However only one country in the world (Canada) has ever introduced a constitution or charter in peace time not following war, revolution or major system change. We are not exactly Canada.

In truth, it may not matter much whether the constitution passes. It may be enough that we are having the debate. Raising the issues in public discussion, seeking creative solutions etc. These discussions then lead to legislation - and the way our system is built - that is a constitution.

