



## The Jewish Nation-State Law and its Implications for Democracy, Human Rights, and the Middle East Peace Process

Following renewed requests on the part of Prime Minister Netanyahu, and in spite of the opposition of the Knesset's legal advisor and the office of the Attorney General of the State of Israel to many of its provisions, the Knesset passed the discriminatory Basic Law "Israel as the Nation-State of the Jewish People" on July 19. This law will now assume constitutional status, subordinating all other legislation to its provisions.

Despite multiple revisions to the original draft, the law undermines democracy and poses several severe threats to human, civil, and minority rights. Additionally, it diminishes the prospects for a shared society in Israel, the establishment of a viable Palestinian state based on pre-1967 borders, and sustainable peace in the region.

The Mossawa Center expresses its gravest concerns with regards to Article IV on the status of the Arabic language and Article VII on Jewish settlements. Thus, the Mossawa Center urges the international community to do all that is in its power to condemn the recent legislation of this discriminatory law and to support the Palestinian minority in facing its detrimental consequences.

Although the Palestinian Arab minority constitutes over twenty percent of the population, the law does not address their status as citizens or as a minority. It does, however, address the status of their language. Whereas Arabic has held official status, along with Hebrew, since 1948, the law privileges Hebrew as "the language of the state" and demotes Arabic to a language that "has a special status in the state." Since the establishment of the state and despite the official status of the Arabic language, Palestinian citizens have struggled to maintain their language. The Mossawa Center, as well as other civil society groups, have gone to court to ensure that the state provides services in Arabic. The law purports to maintain the current status of Arabic, declaring that "this clause does not harm the status given to the Arabic language before this law came into effect." However, it does not guarantee that Palestinian citizens will have access in Arabic to state services, and effectively terminates the ability of Palestinians to pursue legal procedures in defense of their language.

Consistent with its other discriminatory provisions, the law tasks the state with the responsibility to "to preserve the cultural, historical and religious heritage of the Jewish people among Jews in the Diaspora," while making no such promises regarding the Palestinian Arab minority, thereby privileging non-citizen Jews over Arab Palestinian citizens. While the law does not explicitly deny minorities the right to preserve their culture, the exclusion of such provision falls short of the dictates of international law. According to the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity." This provision affirms the treatment of Palestinians as second-class citizens, privileging non-citizen Jews over non-Jewish citizens of the state.

Arab Palestinian citizens in Israel are routinely denied the right to live in predominantly Jewish communities. In addition to the operation of admission committees that discriminate against Palestinian citizens and prevent them from living in Jewish communities<sup>1</sup>, Arab citizens that succeed in purchasing properties in<sup>1</sup> Jewish towns are often faced with protests against their presence<sup>2</sup>. Previous drafts of the law guaranteed citizens the right to establish separate communities based on religion or nationality, illustrating such right as an attempt to maintain communities that are separate but equal. The provision enabling the establishment of ethnically-exclusive communities has been reformed into one that tasks the state with "the development of Jewish settlement as a national value," dictating that the state "will act to encourage and promote its establishment and consolidation." This clause, while it may sound less concerning, effectively legalizes the discriminatory housing, zoning, and land allocation policies that promote the expansion of Jewish communities and impede the establishment or expansion of Palestinian ones. The state has historically only promoted the construction of Jewish towns and the expansion of existing ones. According to scholar Oren Yiftachel, since 1948, Israel has built "close to 1,100 Jewish settlements between Jordan and the Mediterranean Sea. At the same time, it destroyed over 400 Arab villages and forbade Arabs to build new localities."<sup>3</sup> The only exception to this is the establishment of seven localities on confiscated Bedouin land in the Negev which the state uses to displace and concentrate the Bedouin population. Mossawa expects that such policies will develop into more severe ones, given the legislation of this basic law.

The law clearly denies persons their rights based on their national identity. It declares that "The right to exercise national self-determination in the State of Israel is unique to the Jewish People." This provision violates Article I of the International Covenant on Civil and Political Rights, to which Israel is a signatory, which states that "All peoples have the right to self-determination." Additionally, the law designates the current flag and emblem as the state's flag and emblem, and Hatikvah as its national anthem, marginalizing Palestinian Arab citizens and negating their existence.

In recent years and especially since U.S. President Donald Trump expressed his ambivalence regarding the Middle East peace process, the idea of a one-state solution has become increasingly prevalent in the discourse of Israeli officials and politicians. The Prime Minister himself suggested that the international community should reconsider the right of Palestinians to self-determination in a speech given in London at the beginning of November. Meanwhile, the growth of illegal settlements in the occupied Palestinian territories is rendering a two-state solution based on pre-1967 borders increasingly unlikely. With this in mind, the aforementioned provision denying the right to self-determination to non-Jews is particularly alarming. If a single state is established over all of historical Palestine—a reality that is increasingly likely considering the unwillingness of the international community to intervene—the Jewish nation-state law allows for the establishment of a state in which the majority of its citizens do not have the ability to exercise their basic civil right to self-determination.

Moreover, the law declares Jerusalem "whole and united" as the capital of the State. The provision on Jerusalem cements the status of Jerusalem as a non-negotiable issue. Codifying its status as the eternal capital into this Basic Law makes future amendments to the law extremely difficult, thus thwarting the possibility to end the occupation and establish just, long-lasting peace in the country and the region.

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<sup>1</sup> <https://www.haaretz.com/.premium-court-allows-villages-to-veto-residents-1.5302588>

<sup>2</sup> <https://www.haaretz.com/israel-news/israel-s-nation-state-bill-wins-backing-in-first-of-three-knesset-votes-1.6045824>

<sup>3</sup> Yiftachel, O. (2012), "Naqab/Negev Bedouins and the (Internal) Colonial Paradigm."

The Jewish Nation-State Law will prove to have detrimental consequences both domestically and internationally. It has already codified into law the Jewish character of the State, undermined the rights of Palestinians as citizens and as a minority, eroded the very few democratic characteristics Israel claims to possess, and thus legalized the treatment of Palestinians as second-class citizens. Additionally, it legitimizes the increasingly common extremist position that Jerusalem and the occupied Palestinian territories belong exclusively to Israel, rendering Israeli political will and law increasingly incapable of ending the occupation.

During the meeting of the Joint Committee on the bill on July 10, 2018, the Deputy Attorney General of Israel and the Knesset's Legal Advisor expressed their concerns about the bill, including their opposition to provision II of Article VI which allows for residential segregation. Both stated that the bill poses several constitutional challenges, and that the specific provision enables discrimination based on national and religious identity. While the specific provision in question has been removed from the bill in the aftermath of this meeting, they also warned of the potential international repercussions that this bill could have. In spite of all this, the bill has become law.

The Mossawa Center thus urges the international community to express its concerns with regards to the Jewish Nation-State Law. International support is of utmost importance for the Palestinian struggle for equality and it is our hope that foreign governments will express their concerns to Israeli delegations in their capitals about this legislation. In addition, we invite foreign embassies in Tel Aviv to provide similar statements to Knesset Members. Furthermore, we urge the international community and foreign embassies in Tel Aviv to consider Palestinian citizens of Israel as core partners in peacebuilding initiatives, and to invite Palestinian civil society organizations to the table when such issues are being deliberated upon. Finally, Mossawa significantly appreciates the international support to the Palestinian struggle for equality, and hopes that such support will be continued and reaffirmed in order to equip our community with the tools to address the new challenges this law presents.