



Inter-Agency Task Force on Israeli Arab Issues

**Basic Law: Israel as the Nation-State of the Jewish People:
Discourse and Implications for Arab Citizens of Israel**

July 27, 2018

In the early hours of Thursday, July 19th, 2018, the Knesset passed Israel's 13th Basic Law:¹ ***Israel as the Nation-State of the Jewish People***, with a slim 62:55 majority and two abstentions.² Its passage was by no means seen as a certainty, and the vote was tensely awaited by those in favor and in opposition alike. The bill has been at the heart of heated and longstanding debate among political leadership, Israeli activists, civil society and the community at large, over whether Israel requires a Basic Law that affirms its character as a Jewish state, and what the consequences are for Israel's democratic character and for its Arab citizens—who comprise the vast majority of Israel's non-Jewish population.³ Its passage has sent shockwaves through Israel's Arab society, and has been met with polarized response from within Israel and abroad, including widespread condemnation from critics alongside expressions of praise and support.

[Full English translation of the Bill available here.](#)

The basic principles of the bill are that the land of Israel is the historical home of the Jewish people, the State of Israel is their national home, and the right to self-determination in Israel is unique to the Jewish people. The bill formalizes state symbols, Jerusalem as the capital, and national holidays. It defines Hebrew as the formal language of the state and Arabic as a language with special status, the promotion of Jewish settlement as a national value, and the state's commitment to connect with and preserve the heritage of the Jewish people among Jews in the Diaspora.

This update aims to serve as an orientation to the legislation and the ongoing vigorous debate about its significance and impact, particularly as relevant to Arab citizens, Jewish-Arab and state-minority relations in Israel.⁴

¹ Basic Laws take precedence over other Israeli legislation, guide the legal system in the absence of a constitution and are more difficult to repeal than regular laws (this Basic Law can be changed only by being replaced with a different or revised Basic Law, requiring a minimum 61 votes out of the Knesset's 120 Members). Including this bill, 13 Basic Laws have been approved, and three additional Basic Laws are modifications of previous ones.

² MK Benny Begin (Likud) and MK Orly Levi-Abukasis (Independent)

³ Arab citizens comprise nearly 21% of Israel's population, or 1.8 million people. In addition, around 4.8% of Israeli citizens (400,000 people) are referred to as "non-Jewish" and "non-Arab", mostly non-Jewish spouses of Jewish citizens, coming from the former USSR.

⁴ Much criticism was voiced regarding the negative effects this legislation might have on the rights of additional groups – e.g. [Reform and Conservative Jews, the LGBT community and women](#) as well as in its [potential to undermine Israel-Diaspora relations](#)– but that is beyond the scope of this paper.

Background

The Basic Law was first proposed in the Knesset by MK Avi Dichter (Likud) in 2011 and has been repeatedly shelved, revised and significantly amended due to the heated controversy it has consistently generated. Proponents say it is intended to secure Israel's Jewish character [in the praxis of law](#),⁵ and is necessary in light of [increasing challenges to the notion of Jewish state](#), and of developments that have tipped the balance between Israel's Jewish and democratic character in favor of the latter,⁶ especially in the Supreme Court.^{7,8} Opponents argue that the main goal is not to create balance, but for "the ['Jewish' element to take precedence over the 'democratic' element](#)."⁹ Within Arab society, the law is widely perceived, as Chair of the Joint List MK Ayman Odeh described, an expression "[of Jewish supremacy and \[tells\] us that we will always be second-class citizens](#)."

In the week preceding the final vote, the text of the Basic Law underwent final revisions to soften controversial clauses that hindered necessary support for it to pass (See [Table 1 for version comparison](#).) Many say that the final version is ultimately largely symbolic and declarative, though the type and degree of societal ramifications is yet to be seen. Meanwhile, the process of finalization included intense debate over the bill itself and its highly controversial clauses which added to polarization and tension in state-minority relations surrounding this legislation, and deterioration of trust between Jewish and Arab citizens.

In addition, even on a declarative level, the legislation has raised significant concerns regarding the status of Arab citizens, Jewish-Arab relations, and Arab citizens' sense of belonging. It is also seen as a slippery-slope paving the way for more concrete measures in the future, possibly affecting [close decisions in the Supreme Court](#), [compromising government commitment to the provision of equal services](#), and "[deepening the rift and exacerbating the hostility between parts of Israeli society](#)."

Controversy

The new Basic Law is as controversial for its basic principles as for its omissions and specific clauses. In extending the right of national self-determination uniquely to Jewish citizens, the legislation has surfaced challenging and sensitive questions about nationality and nationalism in Israel. Critics say the law "[failed to grapple with Palestinians citizens' insistence that they have a right to live in Israel with full and equal rights, and that they will not give up their Palestinian national identity to do so](#)." Others say it is a corrosion of the founding ideals of Israel, which were intended to protect not [just the Jewish people but their ideals of democracy and pluralism](#), as well.

⁵ "Proponents, on the other hand, contend that the existing Basic Law: Human Dignity and Liberty defines Israel's democratic character. Therefore, the present bill was necessary to anchor Israel's Jewish character in constitutional law." [Nation-State Law Explainer](#). *Israel Democracy Institute*, July 18, 2019

⁶ Upon its passage, [Prime Minister Netanyahu said](#) that "This is our state—the Jewish state. In recent years, there have been some who have attempted to put this in doubt, to undercut the core of our being. Today we made it law."

⁷ Professor Avraham Diskin, author of the original Nation-State bill, says "the law is most needed ... because of the Israeli Supreme Court. He and other critics of the high court say it has ignored the Jewishness of the state, for example in cases of Palestinian residency rights in Israel, rights of foreign converts to citizenship, land purchases by the Jewish National Fund, draft deferments to haredi Orthodox youth and the deportation of illegal migrants." Oster, Marcy, "[Does Israel need a Jewish nation-state law?](#)" *The Times of Israel*, July 17, 2018.

⁸ "[Minister of Education Naftali Bennett \(Jewish Home\)](#) recently wrote that this Basic Law is essential because the "Supreme Court, in a series of rulings, has gradually emptied the Jewish side [of the balance]" while "strengthening the democratic."

⁹ "[Correction: Israel-Jewish Nation Bill Story](#)" *The New York Times*, Associated Press, July 16, 2018.

Respondents say these critiques are overblown. [“In reality, Israel’s Basic Law would not be out of place among the liberal democratic constitutions of Europe,”](#) writes Law Professor Eugene Kontorovich. Others suggest that critique is an attack on Israel’s right to exist as a state of the Jewish people: [“What could a right of ‘national’ self-determination to non-Jewish communities inside Israel possibly mean other than ending the Jewish state as such?”](#) For the bill’s sponsor, MK Avi Dichter (Likud), the law is in response to efforts [“to transform Israel to a country of all its citizens.”](#) More than anything, however, responses point out that most of the principles of this law [have been appearing for decades in previous legislation](#)¹⁰ and [“do not deprive a single individual of a single right”](#) nor [“endanger democracy.”](#) Rather, they say, the law can be criticized [for being superfluous and inviting attack from Israel’s detractors.](#)

Omissions

Critics point to the lack of references to ‘democracy’ and ‘equality’ in the final law as the factor tipping the overall balance between Israel’s Jewish and democratic character. If this law was [“part of the chapter on basic principles of an Israeli constitution”](#) writes Knesset researcher Susan Hattis Rolef, “and was balanced by other principles – such as equality among all parts of the population and minority rights – then the main criticism of it in parts of Israeli society and abroad would probably have vanished.” [“Almost all nation-states in the world include an explicit commitment to the value of equality in their constitution or other core legislation,”](#) an Israel Democracy Institute article explains “[b]ecause of the need to guarantee minority rights.” While Israel’s Declaration of Independence contains a guarantee of equal citizenship it [“does not have constitutional validity.”](#) Since the law extends exclusive national rights to the Jewish majority without articulating democratic protections, guarantees or otherwise defining the status of its non-Jewish minority, the Association for Civil Rights in Israel states that it [“clearly signals to everyone who is not Jewish—including the indigenous Arab minority that comprises 20% of the country’s citizens—that they are second-class citizens.”](#)

Up until the final approved version, this Basic Law contained reference to the Declaration of Independence and to democracy. While proponents say dropping these was an intent to balance the standing of Israel’s Jewish character in Basic Law,¹¹ opponents say that the omissions create a hierarchy between Israel’s Jewish and democratic commitments which put the individual equal rights of all citizens at risk.¹²

¹⁰ “That the State of Israel is the nation-state of the Jewish people - this is already established in the Declaration of Independence [...] The flag and anthem have already been anchored in legislation. The assertion that the united and united Jerusalem is the capital of Israel appears in the Basic Law: Jerusalem, enacted more than 30 years ago.” Jewish immigration to the state is anchored in “the Law of Return, which Ben-Gurion defined as the basic law of Israel. The official status of Independence Day, Memorial Day and Holocaust Day is also according to previous laws, in which this is explicitly stated.” Ben Meir, Yehuda, [“National law is superfluous but the leftist attacks are hysterical”](#) *Haaretz*, July 23, 2018 (Hebrew).

¹¹ “Proponents, on the other hand, contend that the existing Basic Law: Human Dignity and Liberty defines Israel’s democratic character. Therefore, the present bill was necessary to anchor Israel’s Jewish character in constitutional law.” [“Nation-State Law Explainer”](#) *Israel Democracy Institute*, July 18, 2018.

¹² For example: “[T]he Jewish Nation-State Law does weaken the protection granted to individuals under the Basic Law on Human Dignity. When the Supreme Court reviews laws that limit individual dignity, it applies the “limitation clause,” which requires, among other things, that the law “befit[s] the values of the State of Israel” and is “enacted for a proper purpose.” Attempts to challenge discriminatory legislation could now be answered by invoking the new Basic Law as conveying the “values of the State of Israel” and “a proper purpose.”” Benvensiti, Eyal and Lustig, Doreen, [“We the Jewish People’—A deep look into Israel’s new law”](#) *Just Security*, July 24, 2018

Controversial Clauses

Much of the controversy surrounding the legislation also centered on its specific clauses. Two clauses in the final version of the Basic Law have potential practical ramifications for Arab citizens – the clause on Language and the clause on Jewish Settlement:

- **Language:** This clause says that the state's language is Hebrew, that Arabic has a special status and its use in or by state institutions will be regulated by law, and asserts the status given to the Arabic language before this law has not been harmed. Despite this assurance, this is the first law that officially designates that [Arabic has a lower status than Hebrew](#). Most interpretations of this clause are that "[Arabic was an official language¹³ yesterday but isn't one today, \[and therefore\] its status – and that of Arabic-speakers – has been harmed](#)." Dr. Yonatan Mendel, Director of the Van Leer Institute's Center for Jewish-Arab Relations, pointed out that this move goes against government recommendations from 2003, which noted that the Arabic's status "[was one of the few collective rights that Arab citizens enjoyed and that should be preserved](#)." Yesh Atid Chair, MK Yair Lapid, said that Zeev Jabotinski (founder of the Beitar Movement from which the Likud Party originated) "would never have supported" [a bill that demotes the standing of Arabic](#). Within Arab society, this clause is seen as a sidelining of Arab society and culture, and [reflects a desire to build walls between cultures](#). Responses to such criticism state that nothing about the actual status and use of Arabic will change in the country, and that more so, this is actually the [first time that Arabic is recognized by primary legislation](#) since its official status was heretofore based on a pre-state British mandate ordinance requiring official documents to be published in Arabic.
- **Jewish Settlement:** The Jewish Settlement clause says that "[t]he state views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation." (The term "Jewish Settlement" in this case, refers to the construction of communities for Jews within Israel, not to be confused with West Bank settlement.) This clause is a softer formulation of a previous, more controversial clause that said the state may allow "[members of one religion or of one nationality, to maintain separate communal settlement](#)." This stronger version drew broad criticism, including from the [Attorney General's office](#) and from [President Rivlin](#) for circumventing Supreme Court precedent and enabling discrimination on the basis of race, religion, sex, nationality, disability, personal status, age, parenthood, sexual orientation, country of origin, or political affiliation. While the new, softer formulation is still seen [as too ambiguous by some](#), Deputy Attorney General, Raz Nizri explained that "[the clause would allow incentives to build Jewish settlements, but would not prevent Arabs from living in them](#)." Nizri added that "there is a distinction between the rights of a national collective and individual rights. National collective rights in this country are only for Jews, but in terms of individual rights, there is no difference, there must be equality." He did critique the wording of the existing law saying, "If I were a legislator, I would put the right of equality

¹³ Until now, Arabic was considered one of Israel's two official languages based on the "Palestine Order in Council," a pre-state British Mandate Law that was adopted by the State of Israel in 1948. This law required official government ordinances, notices and forms to be published in Arabic. While implementation of this law has been partial, over the past two decades, the Supreme Court began enforcing it on state institutions.

into the text of the law, but even so we must interpret it."¹⁴ Yet, according to a different perspective, prioritization of Jewish settlement while there is a [severe shortage of housing in Arab society](#) is a means of condoning unequal services and allocations. No new Arab towns have been built since Israel's establishment except for the Bedouin towns in the Negev despite 11-fold population growth.

Arab and Society Response

Upon passage of the legislation, controversy and polarization escalated. Within Arab society the passage was received with "[shock and sorrow](#)" and no shortage of anger. As coalition members [celebrated](#), [Arab lawmakers tore the bill](#) and were removed from the Knesset. MK Ahmad Tibi announced "[the death of democracy](#)." MK Aida Touma Sliman (Joint List, Chair of the Knesset Women Status Committee) wrote that [the law cements "a racist doctrine of 'separate and unequal.'"](#) Numerous voices from Arab society have publicly expressed similar sentiments, with many also stating their steadfast pride in their identity and in the belief that there is a future for Jewish-Arab partnership. These voices include writers and activists [Odeh Bisharat](#), [Abed L. Azab](#), [Samah Salaime](#), [Mohammad Darawshe](#), news anchor [Lucy Aharish](#), [Adv. Raghad Jaraisy](#), singer [Mira Awwad](#), artist and activist [Said Abu Shakra](#) and many others. Some activists took to social media to protest, as well as to create opportunities for [Jewish and Arab citizens to express their solidarity](#). Jewish journalists, activists and public figures joined in expressing fear of the bill's negative ramifications on equality and Jewish-Arab relations in Israel, including for example, renowned conductor Daniel Barenboim, [former Minister of Defense Moshe Arens](#), [Rabbi Gilad Kariv](#), Tzipi Livni, [Ben Dror Yemini](#), [Prof. Mordechai Kremnitzer](#), to name a few.

The Arab Higher Follow-Up Committee (an extra parliamentary body representing Arab political parties, movements and mayors) held emergency meetings and called a series of protests in the coming weeks. These including a joint Jewish-Arab demonstration scheduled to take place in Tel Aviv on August 4th, an emergency Jewish-Arab convention in Haifa on July 29th, a petition to be circulated against the bill, and international advocacy vis-à-vis UN institutions and various embassies.

Druze Community

A particularly strong response came from within the Druze community. The [Druze have a special relationship with the state of Israel](#), which includes service in Israel's military and is referred to as the "blood covenant." Druze often deviate from criticism levied at the state by the wider Arab minority. In this case, however, three Druze members of Knesset (Kulanu, Israel Beitenu, and the Zionist Camp) immediately filed the first Supreme Court petition against the bill, arguing that it violates basic rights, "[deems that non-Jewish minorities have no status in the state](#)" and "harms Druze members of the security forces, including Druze soldiers, as well as [the Druze bereaved families who have been in fact exiled from their country despite their sacrifice for it.](#)"

The Forum of Druze and Circassian Mayors wrote an emergency open letter to PM Netanyahu, asking him to prevent its advancement as it "[perpetuates discrimination](#)" in land and housing while "significantly harming all Arabic speakers in Israel." Similarly, [more than 100 Druze officers](#) joined

¹⁴ Lis, Jonathan, Levinson, Chai, "[Deputy Legal Advisor: National law will not allow the establishment of Jewish settlements only](#)" *Haaretz*, July 16, 2018. (Hebrew)

a special forum to protest the law, with many also publishing individual statements. [Brig. Gen. \(res.\) Amal Asad](#), a well-known decorated IDF officer who wrote an open letter to the Prime Minister. Shakib Shanani, former MK and [father of the Druze policemen killed on Temple Mount last year](#) issued a statement that the bill "is a mark of Cain to anyone who voted for it."

A number of Jewish public figures are speaking against the effects of the bill on the Druze community including former [IDF Chief of Staff Gabi Ashkenazi](#), and former Minister of Defense, Moshe Arens, who lamented "[Druze serve alongside Jewish soldiers in all branches of the military; their officers have reached the highest ranks. But one will search the law in vain for any provision for this community.](#)"

In response, [Minister of Education, Naftali Bennett \(Jewish Home\)](#) acknowledged in a tweet that "a specific flaw exists [in the bill] with regards to our Druze brethren which should be fixed" adding that "the bill itself is vital and will remain." PM Netanyahu also [met with Druze leaders](#) and announced that a [plan would be formulated that will give expression to the deep commitment of the State of Israel to the Druze community.](#)

Civil Society Response

Jewish and Arab civil society organizations and leaders working to promote shared society in Israel came out strongly against the bill. The Israeli Democracy Institute published analyses, saying the "[refusal to recognize the equality of members of minority groups who are its citizens also poses a threat to the internal Israeli discourse, already rife with exclusion and hatred of minorities](#)" and exacerbates "[Arabs' sense of alienation and loathing towards the regime and towards the concept of the Jewish state.](#)" The [Association for Civil Rights in Israel \(ACRI\)](#) published a statement saying the legislation sends the message "[that the state is Jewish and for Jews alone](#)" and criticized the process of legislating Basic Law by slim majority, rather than in cooperation and creation of broader consensus which is destructive to minorities of all kinds. Others, like [The Abraham Fund Initiatives and Hand in Hand bilingual schools](#), published statements in protest of the bill and warned of the impact on Jewish-Arab relations. A number of organizations are joining forces to hold "[the world's largest Arabic lesson](#)" in defiance of the bill, in Tel Aviv on July 30th.



IMAGE 1: The World's Largest Arabic Lesson - Event sponsored by coalition of civil society organizations in response to passage of the Basic Law: Israel as the Nation-state of the Jewish People

Universities, many of which have been working to create shared campus environments, also issued statements. [Hebrew University](#) said that "we will continue to act towards equality on campus, where all feel welcome, among other things by making sure Arabic is present around the Hebrew University campuses." At [Tel Aviv University](#), 140 researchers sent a letter to the University administration asking to add Arabic to its logo. The [Open University's staff](#), representing hundreds of lecturers, wrote that "in the shadow of the attacks against Arab citizens, we stand together with our friends, brothers and sisters, colleagues and students [male and female] – Arabs, Oriental Jews, Ethiopians, LGBT and all whose civic standing is being threatened directly or indirectly."

American Jewish Response

The passage of the bill received extensive international coverage in which initial widespread criticism of the legislation has been followed by considerable ongoing discussion and debate. While American Jewish concerns about the legislation extend beyond state-minority relations, many Jewish organizations issued statements that referenced the rights of Israel's Arab citizens. Following are several examples: [ADL stated](#) it is "troubled by the fact that the law, which celebrates the fundamental Jewish nature of the state, raises significant questions about the government's long-term commitment to its pluralistic identity and democratic nature." The [American Jewish Committee \(AJC\)](#) expressed its deep disappointment, focusing on the two controversial clauses described above. [URJ President Rabbi Rick Jacobs issued a statement that](#) the reform movement will "oppose this new law because of the harmful effect on Jewish-Arab relations in Israel, as well as its negative impact on the balance between the various core founding values of the State of Israel." The [Jewish Council for Public Affairs](#) expressed "profound disappointment" and "concern that this new law undermines Israel's vibrant democracy comprised of diverse religious and ethnic groups." The [National Council for Jewish Women's](#) statement called the bill "unnecessary" and said it "takes away hope of creating an equal and shared society."

Table 1: Version Comparison

The following table summarized the main differences between the versions of the Basic Law in the last year of revisions, as related to Arab citizens and state-minority relations, including clauses and wordings that were altered or removed along the way to its legislation.¹⁵ All formal versions of the legislation:

1. Define Israel as "the national home of the Jewish people, wherein the Jewish People fulfills its yearning for self-determination in accordance with its historical and cultural heritage."
2. State that the "Right of National Self Determination in the State of Israel is unique to the Jewish People."
3. Enshrine in law the formal symbols of the state, its national anthem, "undivided Jerusalem" as its capital, the Jewish and Gregorian calendars and Hebrew as "the language of the state."

¹⁵ Comparison is between formal Knesset documents from three points in the legislation process – preparation for an Initial Knesset Reading (May 2017); First reading (April 2018) and final Second and Third Readings (July 2018). All three versions Hebrew text available in the [Knesset website](#).

Preliminary Knesset Reading May 2017	First Knesset Reading April 2018	Final Legislation July 19, 2018
Purpose of the Bill		
<p><i>In the body of the bill:</i> To safeguard Israel as the nation state of the Jewish people; to enshrine in a Basic Law Israel's values as a Jewish and democratic state in the spirit of the principals of the declaration of Independence.</p>	<p><i>In the Bill's "words of explanation":</i> To enshrine in a Basic Law the identity of the State of Israel as the nation state of the Jewish people, and to add to the legislative array a series of clauses that deal with the fundamental characteristics of the state as a Jewish state. The suggested Basic Law will join existing Basic Laws that enshrine additional elements in the State of Israel's character as a Jewish and democratic state in the spirit of the principals within the Declaration of Independence.</p>	None.
Reference to Democracy/Declaration of Independence		
<p>"Jewish and democratic" as well as "in the spirit of the principles of the Declaration of Independence" appear in the body of the bill (see above).</p>	<p>"Jewish and democratic" as well as "in the spirit of the principles of the Declaration of Independence" appear in the "word of explanation" to the bill, as covered by existing Basic Laws (see above).</p>	None.
Status of Arabic language		
<ul style="list-style-type: none"> • Arabic has a special status in the state. • Its speakers have the right to linguistic accessibility to public services, as will be determined by law. 	<ul style="list-style-type: none"> • Arabic has a special status in the state • Its speakers have the right to linguistic accessibility to public services, as will be determined by law. • This clause will not undermine the <i>de facto</i> status of the Arabic language. 	<ul style="list-style-type: none"> • The Arabic language has a special status in the state; Regulating the use of Arabic in state institutions or by them will be set in law. • This clause does not harm the status given to the Arabic language before this law came into effect.
Reference to separate communities/Jewish settlements		
<p>The state can allow a community, including members of a single religion or nationality, to maintain a separate communal settlement.</p>	<p>The state can allow a community, including members of a single religion or nationality, to maintain a separate communal settlement.</p>	<p>The state views the development of Jewish settlement as a national value and will act to encourage and promote its establishment and consolidation.</p>

Preliminary Knesset Reading May 2017	First Knesset Reading April 2018	Final Legislation July 19, 2018
Reference to Jewish law and the legal system		
If the court is faced with a question for which it cannot find a legal precedent, it will rule "on the basis of the principals of freedom, justice, righteousness and peace of the Jewish tradition.	None.	None.
Religious freedom and cultural heritage		
<ul style="list-style-type: none"> • Every resident of the state, regardless of religion or nationality, is entitled to work to preserve his identity, culture language and heritage. • Sacred religious sites will be guarded against desecration or any other harm; freedom of access will be guaranteed. 	<ul style="list-style-type: none"> • Every resident of the state, regardless of religion or nationality, is entitled to work to preserve his identity, culture, linguistic heritage and heritage. 	None.