



Special Document File

THE JEWISH NATION-STATE LAW

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On 19 July 2018, the Israeli Knesset passed Basic Law – The Nation-State of the Jewish People, the latest in a series of such laws that effectively make up the constitution of the State of Israel. After seven years of discussion in which numerous versions of the text were considered, the law passed by 62 votes in favor, 55 against, and 2 abstentions. The Jewish Nation-State Law, as it is widely known, is viewed as an absolute triumph by the ultranationalist right-wing Israeli establishment. It is regarded with equal consternation by others, including self-avowed Zionists, both inside and outside Israel. Consecrating the nature of Israel as a Jewish state in constitutional terms, the law confers the right of self-determination exclusively on Israeli Jews and all Jewish immigrants to Israel. In doing so, it turns Israel’s Palestinian citizens, who account for over 20 percent of the population, into de jure second-class citizens. Overriding the principles of equality and nondiscrimination that are at the core of democratic constitutional regimes, the law also proclaims settlement a “national value,” further blurring the distinction between the State of Israel within its 1948 boundaries and other areas under de facto Israeli control.

In this dossier, JPS presents the English text of the law as published by the Knesset, along with an analytical commentary by Hassan Jabareen and Suhad Bishara, two prominent lawyers from Adalah – The Legal Center for Arab Minority Rights in Israel. Jabareen is the cofounder and general director of Adalah and, arguably, Israel’s foremost Palestinian constitutional attorney; Bishara, the head of Adalah’s Land and Planning Unit, has litigated numerous constitutional cases before the Israeli Supreme Court on the land rights of both Palestinian citizens of Israel and Palestinians living under occupation. The two authors lay out the far-reaching constitutional implications of the Jewish Nation-State Law: they dispute the facile notion that the latest Basic Law changes nothing, but simply confirms decades-long discriminatory practice; they underline the dangers of constitutionally enshrining policies that amount to apartheid; and they caution against the lack of distinction—constitutionally speaking—between areas inside the Green Line and the occupied Palestinian territories

resulting from the law's application "without distinction to all areas under Israeli control that encompass Jewish residents"—in short, a legal prelude to full-on annexation of the occupied territories.

Lastly, this dossier also reproduces the introduction to the petition for an order nisi, which Adalah raised to the Israeli Supreme Court sitting as the High Court of Justice on 7 August 2018 (HCJ 5866/18, The High Follow-up Committee for Arab Citizens in Israel, et al. v. The Knesset [case pending]). Alongside Adalah, the petitioners are the High Follow-up Committee for Arab Citizens in Israel, the National Committee of Arab Mayors, and the Joint List in the Knesset, which together constitute the core of Palestinian political leadership inside Israel. The petition argues that by enacting this legislation, the Knesset, "as a constituent authority, exceeded its powers in the most extreme manner" and requests the court to "order the annulment of the Basic Law."

We refer our readers to the full text of the petition, which is available in English and Hebrew on Adalah's website, and to the essay penned by Nadia Ben-Youssef and Sandra Samaan Tamari, which appeared in the previous issue of the Journal, where the authors reflect on the passage of this law within a broader history of settler colonialism. (See "Enshrining Discrimination: Israel's Nation-State Law," JPS 48 [1].)
