



Briefing Paper

ISRAEL

A discriminatory law, a slap in the face of minorities.

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In 1948, Israel tried to convince the world a western-like democracy had been born in the Middle East due to a decision approved by the General Assembly of the United Nations. Seventy years later, Prime Minister Benjamin Netanyahu and its partners in Government are not ashamed to tell the world they want their Israel to be something different.

In the Declaration of Independence¹, Israel defined itself as a Jewish state "open for Jewish immigration" from all over the world that would "foster the development of the country for the benefit of all its inhabitants (...) based on freedom, justice and peace". A State that would "ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex" and "guarantee freedom of religion, conscience, language, education and culture". That foundational text also asked "the Arab inhabitants of the State of Israel to (...) participate in the up-building of the State on the basis of full and equal citizenship and due representation in all its (...) institutions".

The new Basic Law *Israel as the Nation State of the Jewish People*² passed by the Knesset on July limits that formal equality stressed in the Declaration of Independence. It grants "the exercise of the right to national self-determination in the State of Israel" only "to the Jewish People". Up to now, both Arab and Hebrew were acknowledge as official languages, whereas the new law establishes Hebrew as the state's language and Arab is considered as having "a special status". It also "views the development of Jewish settlement as a national value and shall act to encourage and promote its establishment and strengthening".

These are the three most divisive issues in a brief law with just eleven articles. Some just state the symbols of Israel –name, flag, emblem, anthem, calendar, days of rest- while some others repeat matters already included in the Declaration of Independence. There's a fourth controversial article that declares that "Jerusalem, complete and united, is the capital of Israel". It states exactly the same as the first article of the Basic Law *Jerusalem*³ passed by the Knesset in 1980, notwithstanding the fact that in the Oslo Accords Israel committed to negotiate with the Palestinians the final status of the city.

The approval of this law by a slight margin of 62-55 reflects its electoral character and how the country is divided into two. All the opposition voted against it –the left-center Zionist Camp, the leftist Meretz and the Arab United List-. All the parties in Government voted in favor –the rightist Likud and Jewish Home, the right-center Kulanu and the ultra-religious Shas and United Torah Judaism. Three representatives of ruling parties rejected to support the law because as Benny Begin -the most prominent of the three- warned, "Nationalism which does not preserve human rights deteriorates into violence"⁴.

This law reinforces the Jewish character of Israel leaving out some of the basic principles included in the Declaration of Independence. Democracy, equality and respect to minorities are not mentioned even once. Those who promoted the law argue the first text had already been improved for its final reading. The President Reuven Rivlin, the Attorney General and the Parliament lawyers opposed

¹ https://knesset.gov.il/docs/eng/megilat_eng.htm

² <http://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf>

³ <http://knesset.gov.il/laws/special/eng/BasicLawJerusalem.pdf>

⁴ <https://www.ynetnews.com/articles/0,7340,L-5312792,00.html>

the first text because it excluded the Arab population and created the grounds for legal discrimination. Initially the bill allowed the establishment of settlements exclusively for Jewish people, and asked the courts to apply Jewish law in case there was no legal precedent. Some went even further, supporting to set the state's Jewishness above its democratic character in rulings where the two clashed.

The law is the result of having elections in the near future. Although they should be held in November 2019, terms in office are rarely completed in Israel, and the Prime Minister seems willing to bring them forward to early next year. This means he needs to demonstrate right voters that Likud deserves their support as much as its main rival, the extreme right Jewish Home, a party that had been promoting this bill for years. Because Netanyahu wants to avoid repeating the bad experience he had in 2015. Although polls predicted an easy victory when he called for early elections, he was about to lose them. Only appeals from the Prime Minister and Likud to the rightist voters the day of elections managed to turn upside down the polls. These predicted Likud would tie in the vote with Zionist Camp, an electoral coalition between Labor Party and Hatnua, the center party headed by Tzipi Livni, a former member of Likud and Kadima.

In fact, during the election campaign Netanyahu had already asked conservative supporters to vote Likud to guarantee a rightist Government, since Jewish Home would always be his main partner. When on the Election Day Netanyahu and Likud realized Zionist Camp continued to be slightly ahead in the polls, they posted in Twitter and Facebook calls to vote for them. "The threat is real" because "Arab voters are heading to the polling stations in droves"⁵ they said. The idea behind those posts was clear: in case Zionist Camp won the elections and Arabs did well in the polls, they would be in the Government. Appealing to the right voters' fear to Arabs, Likud won the elections, directly damaging Jewish Home, which lost a third of its mandates.

Since then, this party has been promoting from inside the cabinet a Jewish nation-state basic law, aware that Likud could not oppose to it as both parties share a sheer amount of voters and compete to be the main right party in Israel, especially since Netanyahu is under police investigation.

Putting the electoral effects of the law ahead of the State interests has resulted in the Knesset passing with no common consensus a basic law that is a slap on the face of minorities. This is especially serious in Israel, which has an extremely complex society, where a quarter of its population is non-Jewish and the Arab minority represents a 20.9%. In addition, it has not been the first direct attack to the presence of Israelis of Palestinian origin in the State and its institutions. Prior to 2015 elections, the threshold was raised to 3.25%, according to some critics to directly avoid the three existing Arab lists to sit again in the Parliament. They finally succeeded entering the Knesset because they decided to form a coalition.

Although some people in Israel reduce the debate to "our rights over theirs", this basic law is not only against the rights of the Israeli citizens of Palestinian origin. It is also against those Jewish Israelis who do not want to live in a "Jewish only" country but rather in a State for all its citizens. It is against those who foster

⁵ <https://www.theguardian.com/world/2015/mar/17/binyamin-netanyahu-israel-arab-election>

learning from history and not repeating the mistakes others made in the past. Those who looked down their Jewish minorities born and raised in countries they helped to develop with their taxes, work, effort and lives. As the Likud member Benny Begin pointed out in the Knesset, "What is hateful to you, do not do to your fellow man, it's so simple."⁶

⁶ https://knesset.gov.il/spokesman/eng/PR_eng.asp?PRID=13979